AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 43—No. 11
1-17-78
PAGES
2375-2625

federal register

TUESDAY, JANUARY 17, 1978

highlights

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

Reservations for February are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., 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, Workshop Coordinator, 202-523-3517.

SUNSHINE ACT MEETINGS 2625

HUBERT H. HUMPHREY
Presidential proclamation extending the period for the display of the flag at half-staff on the death of Senator and former Vice President Humphrey 2375

OCCUPATIONAL EXPOSURE TO ACRYLONITRILE (VINYL CYANIDE)
Labor/OSHA establishes emergency temporary standard and proposes a permanent standard; hearing 3-21-78; effective 1-17-78; comments by 2-21-78 (2 documents) (Part IV of this issue) 2608-2621

CHILD CARE FOOD PROGRAM
USDA/FNS establishes national average payment factors and food cost factors for the period 1-1 through 6-30-78 2415

SCHOOL LUNCH PROGRAM
USDA/FNS issues notice of adjustments in the national average factors for payment for lunches and the maximum rates of reimbursements; effective 1-1-78 2416

SCHOOL BREAKFAST PROGRAM
USDA/FNA establishes national average payment for the period 1-1 through 6-30-78 2416

DAIRY PRODUCTS AND EGGS
HEW/FDA publishes memorandum of understanding with Swedish Control Board 2446

CHOCOLATE AND CHOCOLATE LIQUOR
HEW/FDA announces availability of revised administrative guidelines on defect action levels 2445

BRAZIL NUTS, PISTACHIO NUTS
HEW/FDA announces availability of revised guidelines pertaining for analytical methods used to confirm presence of aflatoxin in certain foods and feeds 2444

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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

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

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:

Subscription orders (GPO)	202–783–3238
Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–3187
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5237
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–3517
Code of Federal Regulations (CFR)	523–3419
	523–3517
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5286
Weekly Compilation of Presidential Documents.	523–5284
Public Papers of the Presidents	523–5285
Index	523–5285

PUBLIC LAWS:

Public Law dates and numbers	523–5266
	523–5282
Slip Laws	523–5266
	523–5282
U.S. Statutes at Large	523–5266
	523–5282
Index	523–5266
	523–5282
U.S. Government Manual	523–5287
Automation	523–5240
Special Projects	523–4534

HIGHLIGHTS

1978 PEANUT PROGRAM
USDA/ASCS proposes determinations regarding a loan and purchase program, comments by 1-31-78 2404

TOBACCO CROP INSURANCE ENDORSEMENT
USDA/FCIC amends rule concerning "Dollar Amount of Insurance", 10-31-77 2382

FLUE-CURED AND BURLEY TOBACCO
USDA/FCIC amends poundage quota endorsement; effective 10-31-77 (2 documents) 2382, 2383

NEW ANIMAL DRUGS
HEW/FDA proposal redefining articles used in medicated feeds; comments by 3-20-78 (Part II of this issue) 2526

RURAL HEALTH CLINIC SERVICES
HEW/HCFA develops rules governing services furnished by clinics located in medically underserved areas 2412

ALDRIN AND DIELDRIN
HEW/NIH publishes notice of availability of reports 2450

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS
HEW/HCFA proposes to establish criteria and procedures under which sanctions will be invoked 2413

MULTI-BANK COMMON TRUST FUNDS
SEC establishes definitions; effective 1-10-78 2391

SERIES K-1980 NOTES
Treasury/Secy announces auction, 1-18-78 2470

NATIONAL FLOOD INSURANCE PROGRAM
HUD changes provisions of standard flood insurance policy for coverage and policies issued; effective 1-1-78; comments by 2-15-78 (Part III of this issue) 2569

ANTIDUMPING ACT
ITC proposes to adopt interpretive rules and policy statements concerning the administration; comments by 3-20-78 2407

PRIVACY ACT
Federal Paperwork Commission transfers and revokes systems of records 2424
OMB publishes notice of new systems of records 2466

MEETINGS—
USDA/FNS: Maternal, Infant and Fetus Nutrition, 2-15 and 2-16-78 2415
Commerce/Census: Housing for 1980 Census Advisory Committee, 2-9-78 2423
NOAA: North Pacific Fishery Management Council and Its Scientific and Statistical Committee and Advisory Panel, 2-23 and 2-24-78 2424
South Atlantic Fishery Management Council, 3-23 and 3-24-78 2424
DOD/Secy: ICBMs/M-X Defense Science Board Task Force, 2-7 and 2-8-78 2425
FCC: VHF Automated Radiotelephone Systems, 2-1-78 2443
HEW/FDA: Ophthalmic Device Classification Panel, 2-16 and 2-17-78 2447
NIH: Conference on Membrane Receptors and Disease, 3-23 and 3-24-78 2450
Interior/Secy: Bureau of Indian Affairs Reorganization Task Force, various dates 2453
Labor/BLS: Business Research Advisory Council, 2-15-78 2458
National Commission for Manpower Policy: 2-3 and 2-17-78 2463
NFAH/NEA: Visual Arts Advisory Panel, 2-23-78 2464
NRC: Advisory Committee on Reactor Safeguards Arkansas Nuclear One, Unit No. 2 Subcommittee, 2-2-78 2465
Advisory Committee on Reactor Safeguards Subcommittee on Fluid/Hydraulic Dynamic Effects, 1-31-78 2465
SBA: Executive Board, Region VIII, 2-9-78 2470
VA: Station Committee on Educational Allowances, 2-10-78 2472

CHANGED MEETINGS—
HEW/ADAMHA: Crime and Delinquency Review Committee, 1-18 through 1-20-78 2444
National Advisory Mental Health Council, 1-23-78 2444

SEPARATE PARTS OF THIS ISSUE
Part II, HEW/FDA 2526
Part III, HUD/FIA 2569
Part IV, Labor/OSHA 2586
Part V, Labor/ETA 2625

contents

THE PRESIDENT

PROCLAMATIONS
Humphrey, Hubert H.; display of the flag at half-staff on death, extension 2375

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules
Grapefruit grown in Fla 2385
Lettuce grown in south Tex 2386
Oranges, grapefruit, tangerines, and tangelos grown in Fla 2384
Nectarines, pears, plums, and peaches grown in Calif 2385

Proposed Rules
Avocados grown in south Fla. and limes grown in Fla 2401
Milk marketing orders:
Lake Mead 2403
Oranges (navel) grown in Ariz. and Calif 2401

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules
Cotton; marketing quotas and acreage allotments 2384

Proposed Rules
Peanuts; loan and purchase program determinations 2404

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Farmers Home Administration; Federal Crop Insurance Corporation; Food and Nutrition Service; Forest Service; Rural Electrification Administration; Soil Conservation Service.

AIR FORCE DEPARTMENT

Rules
Discharge Review Board; index inquiry address 2394

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Notices
Meetings:
Advisory committees; January (2 documents) 2444

ARMY DEPARTMENT

Notices
Committees; establishment, renewal, terminations, etc.:
Historical Advisory Committee 2425

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices
Meetings:
Visual Arts Advisory Panel 2464

CENSUS BUREAU

Notices
Meetings:
Housing for 1980 Census Advisory Committee 2423

CIVIL AERONAUTICS BOARD

Rules
Charters:
Advance, travel group, inclusive and one-stop; more than one origination or destination point 2387

Notices
Hearings, etc.:
Allegheny Airlines, Inc., et al. 2418
Continental Air Lines, Inc 2420
International Air Transport Association 2421
Trans World Airlines, Inc 2422
Twin Cities-Las Vegas/Phoenix/San Diego route proceedings 2422

CIVIL SERVICE COMMISSION

Rules
Employment in, recruitment, selection, restoration to duty, etc.; appeal rights for injured employees 2378
Excepted service:
Energy Department 2377
Executive Office of President 2377
Executive Office of President et al.; revocations, correction 2377
State Department 2377
Treasury Department 2378

Notices
Noncareer executive assignments:
Commerce Department 2422
Defense Department (3 documents) 2422, 2423
Environmental Protection Agency 2422
Health, Education, and Welfare Department 2423
Interior Department (2 documents) 2423
Water Resources Council 2423

COMMERCE DEPARTMENT

See Census Bureau; National Oceanic and Atmospheric Administration.

DEFENSE DEPARTMENT

See also Air Force Department; Army Department.

Notices
Meetings:
Science Board task forces 2425

ECONOMIC REGULATORY ADMINISTRATION

Notices
Appeals and applications for exception, etc.; cases filed with Administrative Review Office:
List of applicants, etc. (3 documents) 2425, 2426, 2430
Hearings, etc.:
Petroleum feedstocks allocation to synthetic natural gas plants 2431

EMPLOYMENT AND TRAINING ADMINISTRATION

Rules
Federal-State Unemployment Compensation Program:
Employment and wages, interstate arrangement for combining 2625

ENERGY DEPARTMENT

See Economic Regulatory Administration; Federal Energy Regulatory Commission.

FARMERS HOME ADMINISTRATION

Notices
Disaster and emergency areas:
Mississippi 2414
Texas 2415

FEDERAL COMMUNICATIONS COMMISSION

Rules
Maritime services, land and shipboard stations:
Radiotelephone frequencies, temporary assignment of new HF for mobile services; correction 2395

Proposed Rules
Television broadcast stations:
Subscription television; authorization, cut-off procedures, etc.; correction 2413

Notices
Canada-U.S.:
FM agreement (1947); Table A amendment 2440
Television agreement (1952); Table A amendment 2442
Meetings:
Marine Services Radio Technical Commission 2443
Mexico-U.S. television agreement (1952); Table A amendment 2441
Satellite communications services; applications accepted for filing 2443

FEDERAL CROP INSURANCE CORPORATION

Rules
Crop insurance, various commodities:
Apples 2381
Rice 2380
Tobacco (3 documents) 2382, 2383
Tomatoes 2379

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
Alabama Power Co 2431
Bradco Oil & Gas Co. et al..... 2432
Central Power & Light Co 2432
Cincinnati Gas & Electric Co 2432
Georgia Power Co 2433
Indiana & Michigan Electric Co 2433
Iowa Power & Light Co 2433
Michigan Wisconsin Pipe Line Co 2434
Mississippi Power & Light Co 2435
Natural Gas Pipeline Co..... 2435
Ohio Power Co 2435
Pacific Gas & Electric Co..... 2435
Pacific Power & Light Co..... 2436
Philadelphia Electric Co. (2 documents) 2436
Public Service Electric & Gas Co 2436
Robinson, Leslie and Veronica 2434
San Diego Gas & Electric Co.. 2436
Southern California Edison Co. (3 documents)..... 2437
Texaco Inc. et al..... 2438
United Gas Pipe Line Co 2438
Virginia Electric & Power Co 2438

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood Insurance Program, National:
Insurance coverage, rates and sale and adjustment of claims 2569

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc.; correction 2443
Freight forwarder licenses:
Surfaceair Multi-Modal Corp.. 2444

FEDERAL PAPERWORK COMMISSION

Notices

Privacy Act; systems of records..... 2424

FEDERAL RESERVE SYSTEM

Notices

Meetings, open; procedure for processing request for material to be discussed 2444
Applications, etc.:
Union Bancorporation, Inc 2444

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Trans World Accounts, Inc., et al 2388

Proposed Rules

Consent orders:
Ferrara Imports, Ltd., et al 2406

FISH AND WILDLIFE SERVICE

Notices

Environmental statements; availability, etc.:
National Fish and Wildlife Health Laboratory, Wis 2452

FOOD AND DRUG ADMINISTRATION

Rules

Food additives:
Paper and paperboard components; aqueous and fatty foods; correction 2393
Human drugs:
Penicillin; correction 2393

Proposed Rules

Animal drugs, feeds, and related products, etc.:
Medicated feed articles; definitions and considerations... 2526
Tetracycline (chlortetracycline and oxytetracycline) containing premixes; proposed withdrawal, hearing; correction 2449
GRAS or prior-sanctioned ingredients:
Dextrans (average molecular weight below 100,000); correction 2408
Brazil nuts, etc.; aflatoxin; guidelines availability 2444
Chocolate and chocolate liquor, defect action level; guidelines availability 2445
Food additives; petitions filed or withdrawn:
DeLaval Separator Co..... 2445
Food labeling:
Saccharin and its salts; final guidelines; correction..... 2450
Food processing, storage, and service facilities; memorandum of understanding:
Allegheny County Health Department 2448
Meetings:
Advisory committees, panels, etc 2447
Milk products, dry; memorandum of understanding:
Swedish Government Control Board 2446
Tomato juice concentrate; identity standard; temporary permits for market testing; corrections..... 2449

FOOD AND NUTRITION SERVICE

Notices

Child care food program:
Payment factors, National average (January to June 1978)..... 2415
Meetings:
Maternal, Infant and Fetal Nutrition Advisory Council . 2415
School breakfast program:
Payment factors, National average (January to June 1978)..... 2416
School lunch program:
Payment factors, National average (January to June 1978)..... 2416

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Nezperce and Payette National Forests, Gospel-Hump Wilderness Study Area and Land Management Plan, Idaho 2416

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service.

HEALTH CARE FINANCING ADMINISTRATION

Proposed Rules

Aged and disabled, health insurance for:
Contracts with health maintenance organizations (HMOs); inquiry 2412
Aged and disabled health insurance and medical assistance programs:
Provider claims, prohibition against reassignment; inquiry..... 2412
Rural health clinic services..... 2412
Medical assistance programs:
Reorganization and rewrite of regulations; inquiry..... 2413
Professional standards review organizations:
Grants and designation procedures; inquiry 2413
Sanctions on practitioners and providers of medical services; inquiry 2413

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INDIAN AFFAIRS BUREAU

Rules

Preference in employment; definition of Indian 2393

Proposed Rules

Judgment funds:
Education and socioeconomic programs of Osage Indians . 2408

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau.

Notices

Meetings:
Indian Affairs Bureau Reorganization Task Force 2453

INTERNATIONAL TRADE COMMISSION

Proposed Rules

Antidumping Act; interpretive rules and policy statements; inquiry 2407

Notices

Import investigations:
Display devices for photographs 2454
Luggage products; preliminary conference 2457

INTERSTATE COMMERCE COMMISSION

Rules

Motor carriers:
Exemption, agricultural cooperative transportation; clarification 2396
Railroad car service orders:
Boxcars, substitution 2395
Railroad car service orders; various companies:
Erie Western Railway Co 2395

Notices

Fourth section applications for relief 2473
Hearing assignments 2472

JUSTICE DEPARTMENT

Notices

Pollution control; consent judgments; U.S. versus listed companies, etc.:
Gulf Oil Co 2457

LABOR DEPARTMENT

See also Employment and Training Administration; Labor Statistics Bureau; Occupational Safety and Health Administration; Wage and Hour Division.

Rules

Contracts:
Construction, federally financed and assisted labor standards; nursing home care for veterans and overtime; correction 2394

Notices

Industry study reports for adjustment assistance eligibility:
Bolts, nuts, and large screws of iron or steel 2458
Ferrochromium, high-carbon.. 2458
Adjustment assistance:
American Motors Corp 2459
Centennial Development Co. et al 2459

LABOR STATISTICS BUREAU

Notices

Meetings:
Business Research Advisory Council 2458

LEGAL SERVICES CORPORATION

Notices

Grants and contracts; applications (6 documents) 2462, 2463

MANAGEMENT AND BUDGET OFFICE

Notices

Privacy Act; systems of records 2466

Reorganization project, Presidents:
Natural resources and environmental functions; extension of comments deadline 2467

MANPOWER POLICY, NATIONAL COMMISSION

Notices

Meetings (2 documents)..... 2463

NATIONAL INSTITUTES OF HEALTH

Notices

Carcinogenesis bioassay; reports availability:
Aldrin and dieldrin 2450
Meetings:
General Medical Sciences National Institute 2450

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Meetings:
South Atlantic Fishery Management Council 2424
North Pacific Fishery Management Council et al 2424

NATIONAL PARK SERVICE

Notices

Historic Places National Register; additions, deletions, etc ... 2453

NUCLEAR REGULATORY COMMISSION

Rules

Byproduct material licensing:
Spark gap irradiators containing cobalt-60, license exemptions 2386

Notices

Domestic safeguard matters; supporting statement of need for research, studies, and technical assistance 2464
Meetings:
Reactor Safeguards Advisory Committee (2 documents).... 2465, 2466
Applications, etc.:
Pennsylvania Power & Light Co 2465
Puget Sound Power & Light Co. et al 2466

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

Health and safety standards:
Acrylonitrile (vinyl cyanide); emergency temporary occupational exposure standards; hearing 2586

Proposed Rules

Health and safety standards:
Acrylonitrile (vinyl cyanide); occupational exposure standards; hearing 2608

PUBLIC HEALTH SERVICE

Notices

Health maintenance organizations, qualified 2451

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Loan guarantees proposed:
Minnkota Power Cooperative, Inc 2417

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Act; Securities Exchange Act and Investment Company Act:
Trust funds, multi-bank common; definitions 2391

Notices

Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc 2468
New York Stock Exchange, Inc 2468
Hearings, etc.:
American National Growth Fund Share Accumulation Plans et al 2467
Knott Hotels Corp 2469
Warner Communications, Inc 2469

SMALL BUSINESS ADMINISTRATION

Notices

Disaster areas:
California (2 documents)..... 2470
Meetings, advisory councils:
Denver District..... 2470

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Salado Creek, Tex..... 2417

TREASURY DEPARTMENT

Notices

Notes, Treasury:
K-1980 series 2470

VETERANS ADMINISTRATION

Notices

Meetings:
Educational Allowances Station Committee 2472

WAGE AND HOUR DIVISION

Notices

American Samoa; industry committee; appointment, convention, hearings..... 2461
Performers, professional, employed on projects or productions funded by Arts National Endowment; exemption application; Ballet West 2460

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

PROCLAMATIONS:
4545 2375

5 CFR

213 (5 documents) 2377, 2378
302 2378
330 2378
353 2379
772 2379

7 CFR

401 (5 documents) 2379-2383
404 2381
722 2384
905 2384
912 2385
913 2385
916 2385
917 2385
971 2386

PROPOSED RULES:
907 2401
911 2401
915 2401
1139 2404
1421 2404
1426 2404

10 CFR

30 2386

14 CFR

371 2387
372a 2387
378 2387
378a 2387

16 CFR

13 2388

PROPOSED RULES:
13 2406

17 CFR

230 2392
240 2392
270 2393

19 CFR

PROPOSED RULES:
Ch. II 2407

20 CFR

616 2625

21 CFR

176 2393
440 2393

PROPOSED RULES:
182 2408
186 2408
207 2526
210 2526
225 2526
501 2526
510 2526
514 2526
558 2526

24 CFR

1911 2570
1912 2570

25 CFR

259 2393

25 CFR—Continued

PROPOSED RULES:
113 2408

29 CFR

5 2394
1910 ..... 2389, 2586

PROPOSED RULES:
1910 2602

32 CFR

865 2394

42 CFR

PROPOSED RULES:
Ch. IV 2412
405 (2 documents) 2412
446 2413
447 2413
448 2413
449 (2 documents) 2412, 2413
450 2413
451 2413
452 2413
462 2413
474 2413

47 CFR

81 2395
83 2395

PROPOSED RULES:
73 2413

49 CFR

1033 (2 documents) 2395
1047 2396

CUMULATIVE LIST OF PARTS AFFECTED DURING JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.

1 CFR

Ch. I 1

3 CFR

EXECUTIVE ORDERS:
10866 (Revoked by EO 12033) 1915
10943 (Revoked by EO 12033) 1915
12033 1915
12034 1917

PROCLAMATIONS:
4544 1919
4545 2375

5 CFR

213 ..... 1471-1474, 1921, 1922, 2167, 2377, 2378
302 2378
330 2378

5 CFR—Continued

353 2379
511 1473
534 1473
772 2379

PROPOSED RULES:
300 1506

7 CFR

2 1289
16 969
215 1059
271 ..... 1611, 1922
301 1924
401 2379-2383
404 2381
722 2384

7 CFR—Continued

725 1
795 1929
905 2384
907 ..... 753, 969, 1785
910 ..... 970, 1060
912 2385
913 2385
916 2385
917 2385
928 1785
929 1474
959 1475
967 1475
971 2386
1430 1061
1435 1476
1468 2

7 CFR—Continued
1472 3
1488 1786
1955 1290
1980 1291
2871 3

PROPOSED RULES:
210 1955
760 1958
907 2401
911 2401
915 ..... 974, 2401
945 1096
980 1098
993 2182
1001 779
1139 2404
1421 2404
1426 2404
1464 1351
1701 ..... 11, 12, 1098
1823 1098

9 CFR
73 1062
113 1478
114 1479

PROPOSED RULES:
92 1506
94 1962
317 1099
381 1099

10 CFR
0 1929
9 10
20 2167
30 2386
35 2167
51 970
Ch. II 1613
205 ..... 1479, 1930
211 1291

12 CFR
204 1615
511 1786

PROPOSED RULES:
7 1800

13 CFR
101 3
124 1489

PROPOSED RULES:
121 12

14 CFR
1 2316
21 2316
23 2317
25 2320
27 2324
29 2326
39 ..... 3, 4, 949, 950, 1293-1301, 1786, 2168
71 ..... 5, 6, 951-953, 1303, 1304, 1787
91 2328
93 6
95 1304
97 1787
121 ..... 1789, 2328

14 CFR—Continued
221 1322
298 1489
302 1323
371 2387
372a 2387
378 2387
378a 2387
385 1616

PROPOSED RULES:
39 ..... 13, 974, 975, 1352-1355, 1801
71 ..... 1802, 2182, 2183
73 2183
75 1802
97 1803

15 CFR
Ch. III 7
301 7
303 ..... 753, 2169
806 2169

16 CFR
0 753
3 754
4 ..... 754, 1937
13 2388
195 ..... 954, 1790

PROPOSED RULES:
Ch. II 2185
4 ..... 779, 1804
13 ..... 1506, 2406
1303 1804

17 CFR
1 1323
200 755
210 1063
230 2392
240 ..... 1327, 2392
270 2393

PROPOSED RULES:
210 878

18 CFR

PROPOSED RULES:
2 1509
154 1509

19 CFR
153 954
159 ..... 955, 956, 1790
174 1937

PROPOSED RULES:
6 1963
24 1806
153 ..... 1099, 1356-1358
Ch. II 2407

20 CFR
404 1938
416 1938
616 2625

PROPOSED RULES:
404 1964
416 1964

21 CFR
Ch. I 1940
25 1940

21 CFR—Continued
73 1490
176 2393
177 1941
178 1941
440 2393
444 1941
514 1941
520 1941
522 1941
540 8
556 1942
558 1942
606 2142
640 2142
813 1940

PROPOSED RULES:
146 1509
182 ..... 1509, 2408
184 1509
186 ..... 1509, 2408
207 2526
210 2526
225 2526
310 1966
333 1210
343 1100
501 2526
510 2526
511 1100
514 2526
558 ..... 1966, 2526
740 ..... 1101, 1966
800 1106
801 1106

22 CFR
51 1791

23 CFR
630 1490
640 1328
642 1328

24 CFR
300 1791
570 1602
891 2356
1911 2570
1912 2570
1917 ..... 2062-2082, 2286-2300

PROPOSED RULES:
570 1610

25 CFR
259 2393

PROPOSED RULES:
113 2408

26 CFR
1 ..... 1064, 2169
11 1064

PROPOSED RULES:
1 976
20 976

27 CFR

PROPOSED RULES:
4 2186
5 2186
7 2186

28 CFR

0 1066
43 1066

PROPOSED RULES:

50 1506

29 CFR

1 1942
4 1491
5 2394
94 2150
97 2150
1910 2586
2615 1334

PROPOSED RULES:

1607 1506
2605 1358
2608 1358

30 CFR

50 1617

PROPOSED RULES:

11 979
70 979
71 979
91 979
211 781

31 CFR

500 1335
515 1336

32 CFR

166 1617
230 1066
505 1336
656 1792
723 2169
816 1070
861 ..... 1070, 2394
865 ..... 1619, 2394
983 1070
984 1070

PROPOSED RULES:

832 980
1460 2187
1469 2187

32A CFR

Ch. VI 8

33 CFR

3 ..... 1056, 2372
117 ..... 956-958, 1336-1338
128 2170
165 2170
203 1434

PROPOSED RULES:

117 ..... 981, 982, 1363

36 CFR

7 1792

PROPOSED RULES:

7 779
9 2188
223 1628

37 CFR

201 ..... 771, 958

37 CFR—Continued

202 ..... 763, 964, 965
203 774
204 774

38 CFR

PROPOSED RULES:

1 1628
2 1635

39 CFR

111 1619

PROPOSED RULES:

111 1966

40 CFR

3 1338
20 1339
35 ..... 1493, 1598
52 ..... 10, 755, 1070, 1341, 1793
60 ..... 10, 1494
61 10
180 ..... 1795, 1796
205 1796
220 1071
227 1071
228 1071
249 1872
458 1341

PROPOSED RULES:

52 ..... 4, 1967
86 1108
124 1256
180 15

41 CFR

5A-1 1347
5A-2 1347
5A-16 1348
5A-72 1348
5A-73 1348
5A-76 1350
15-1 967
15-3 1797
105-61 1798
114-26 761

PROPOSED RULES:

60-3 1506

42 CFR

5 1586
66 1498
122 1253
476 2282
478 854

PROPOSED RULES:

Ch. IV 2412
81 1968
405 ..... 780, 2412
446 2413
447 2413
448 2413
449 ..... 780, 2412, 2413
450 ..... 780, 2413
451 2413
452 2413
462 2413
474 2413

43 CFR

20 1072

43 CFR—Continued

PROPOSED RULES:

4100 1108

45 CFR

46 1758
85 2132
100a 1762
232 2170
302 2178

PROPOSED RULES:

16 1968
46 1050
128 1862
137 1865
139 1868
185 ..... 1968, 1969
1351 1363
1606 20
1622 1807
1623 19

46 CFR

188 967
251 1621
280 8
310 9
350 1943

PROPOSED RULES:

283 1363

47 CFR

21 1498
73 1499-1503
74 1943
78 1943
81 ..... 1623, 2395
83 ..... 1623, 2395
87 1504
94 1624

PROPOSED RULES:

73 ..... 1510-1516, 2413

49 CFR

172 970
179 2180
255 1091
266 858
1006 972
1011 1091
1033 ..... 762, 971, 1092, 2395
1036 1954
1047 2396
1056 762
1059 972
1102 1799
1125 1692
1127 1715
1131 1625
1201 1732
1201 1799
1240 1799
1241 1799
1243 1799
1308 972

PROPOSED RULES:

171 1369
173 ..... 983, 369
174 983

49 CFR—Continued

177 983
178 983
266 1108
391 16
392 ..... 20, 1809
395 ..... 20, 21
523 1370
533 1370
571 2189
1057 1109

49 CFR—Continued

1200 1370
1201 1371
1206 1371
1241 1375
1331 1809

50 CFR

17 968
20 ..... 1093, 1799
21 968

50 CFR—Continued

216 ..... 1093, 1627
260 1094
402 870
651 777

PROPOSED RULES:

17 968
601 1460
602 1460
603 1460
652 21

FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	*Date*
1-751	Jan. 3
753-947	4
949-1057	5
1059-1287	6
1289-1469	9
1471-1610	10
1611-1783	11
1785-1913	12
1915-2166	13
2167-2373	16
2375-2625	17

reminders

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

Rules Going Into Effect Today

DOT/MTB—Extension of service life of DOT 3HT Cylinders 63644; 12-19-77

Shipping and packaging requirements; extension of service life of DOT 3HT cylinders 64628; 12-27-77

presidential documents

[3195-01]

Title 3—The President

PROCLAMATION 4545

Death of Hubert H. Humphrey

By the President of the United States of America

A Proclamation

As a special mark of respect to the memory of the Honorable Hubert H. Humphrey, former Vice President of the United States of America and Senator from the State of Minnesota, I, Jimmy Carter, President of the United States of America do hereby proclaim, by virtue of the authority vested in me by a Joint Resolution of the Congress (36 U.S.C. 178), that the period of public tribute and appreciation shall be extended and the flag of the United States shall be flown at half-staff on all buildings, grounds, and naval vessels of the Federal government in the District of Columbia, and throughout the United States and its Territories and possessions until, and including January 19, 1978, the day the 95th Congress of the United States reconvenes.

I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

May this period, as Senator Humphrey wished, "be a time to celebrate life and the future" even though we cannot escape the pain and sorrow of his leaving.

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

Jimmy Carter

[FR Doc. 78-1477 Filed 1-16-78; 1:35 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

Correction

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: In 42 FR 64636-64638, December 27, 1977, the following positions were revoked in error: one Personal Security Assistant to the Secretary of Defense; one Secretary of American Samoa, one Chief Justice of American Samoa, and one Special Assistant to the Director (American Samoa) in the Department of Interior; one Special Assistant to the Secretary of Labor; one Confidential Assistant to the Executive Assistant to the Administrator and one Confidential Assistant to the Deputy Administrator, Veterans Administration; and three Confidential Assistants to the Assistant Administrator, General Services Administration.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(37), 213.3312(1), 213.3315(a)(1), 213.3327 (a)(7) and (a)(10), and 213.3337(a)(4) are amended to read as follows:

§ 213.3306 Department of Defense.

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

(37) One Personal Security Assistant to the Secretary.

* * * * *

§ 213.3312 Department of the Interior.

* * * * *

(1) *Office of the Director of Territorial Affairs.*

(1) [Reserved].

(2) One Secretary of American Samoa.

(3) One Chief Justice of American Samoa.

(4) One Special Assistant to the Director (American Samoa).

(5)-(10) [Reserved]

* * * * *

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(1) One Private Secretary, two Special Assistants, one Confidential Assistant, and two Staff Assistants to the Secretary.

* * * * *

§ 213.3327 Veterans Administration.

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

(7) Two Confidential Assistants to the Executive Assistant to the Administrator.

* * * * *

(10) One Confidential Assistant to the Deputy Administrator.

* * * * *

§ 213.3337 General Services Administration.

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

(4) Three Confidential Assistants to the Assistant Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp. p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1310 Filed 1-16-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Assistant to the Secretary is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(a)(6) is added as set out below:

§ 213.3331 Department of Energy.

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

(6) One Assistant to the Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1302 Filed 1-16-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Secretary to the Director, Office of Telecommunications Policy, is reestablished under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3303(i)(6) is added as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(i) *Office of Telecommunications Policy.* * * *

(6) One Confidential Secretary to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1304 Filed 1-16-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Secretary (Stenography) to the Executive Secretary of the Department and Special Assistant to the Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(a)(33) is added as set out below:

§ 213.3304 Department of State.

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

(33) One Secretary (Stenography) to the Executive Secretary of the Department and Special Assistant to the Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1305 Filed 1-16-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assitant Secretary (Public Affairs) is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3305 (a)(73) is amended to read as follows:

§ 213.3305 Department of the Treasury.

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

(73) Two Special Assistants to the Assistant Secretary (Public Affairs).

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1309 Filed 1-16-78; 8:45 am]

[6325-01]

EMPLOYMENT IN THE EXCEPTED SERVICE; RECRUITMENT, SELECTION, AND PLACEMENT; RESTORATION TO DUTY; APPEALS TO THE COMMISSION

AGENCY: Civil Service Commission.

ACTION: Final regulation.

SUMMARY: The Commission's injury compensation regulations are amended to clarify and perfect certain provisions and to specify that injured employees in the excepted service and in the legislative and judicial branches who recover more than 1 year after they begin receiving compensation are entitled to appeal rights to the Commission.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Raleigh Neville, 202-632-6817.

(1) The table of contents of Part 302, together with sections 302.101(a) and 302.103 are amended, and a new Subpart E is added to clarify the coverage of this Part and to provide that injured employees in the excepted service who recover more than 1 year after they begin receiving compensation have appeal rights to the Commission in the event the agency does not accord them the priority consideration required by law.

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

* * * * *

Subpart E—Appeals

Sec.
302.501 Basic entitlement.
302.502 Time limit.
302.503 Compliance with FEAA decision.

* * * * *

302.101 Positions covered by regulations.

(a) *Positions covered.* With respect to the application of veteran preference, this Part applies to each position in the executive branch of the Federal Government and in the District of Columbia which is not in the competitive service as defined in § 212.101(a) of this chapter. With respect to restoration rights due to compensable injury and appeals therefrom, it applies to those positions covered by 5 U.S.C. 8101(1) which are not in the competitive service.

* * * * *

(c) *Positions exempt from appointment procedures.* In view of the circumstances and conditions surrounding employment in the following classes of positions, an agency is not required to apply the appointment procedures of this part to them, but each agency shall follow the principle of veteran preference as far as administratively feasible and, on the request of a qualified and available preference eligible, shall furnish him/her with the reasons for his/her nonselection. Also, the exemption from the appointment provisions of this Part does not relieve agencies of their obligation to accord persons entitled to priority consideration (see § 302.103) their rights under 5 U.S.C. 8151:

* * * * *

§ 302.103 Definition.

"Person entitled to priority consideration" means a person who was furloughed or separated without misconduct, from a position without time limit, because of a compensable injury and whose recovery takes longer than 1 year from the date compensation began. To be eligible under this Part the person must apply for reappointment to his or her former agency within 30 days of the date of cessation of compensation.

* * * * *

Subpart E—Appeals

§ 302.501 Basic entitlement.

An individual who is covered by 5 U.S.C. 8101(1) and is entitled to priority consideration under this Part (see 302.103) may appeal a violation of his/her restoration rights to the Federal Employee Appeals Authority (FEAA) by presenting factual information that he or she was improperly denied reemployment because of the employment of another person.

§ 302.502 Time limit.

Although there is no specific time limit on the filing of an appeal under this section, the appellant must exercise due diligence.

§ 302.503 Compliance with FEAA decision.

Agency compliance with the Commission's decision on an appeal is mandatory unless the agency petitions the Appeals Review Board to reopen and reconsider the decision under § 772.310) of this chapter.

(5 U.S.C. 1302, 5501, 3302, 8151; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

(2) The authority of Part 330 is amended and § 330.201(e)(2) is revised to clarify that injured employees who were separated and who recover more than 1 year after they begin receiving compensation must apply for reappointment within 30 days of the date compensation ceases.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

§ 302.201 Priority in filling vacancies.

* * * * *

(e) An agency's reemployment list shall consist of:

* * *

(2) Former employees in the competitive service in tenure groups I or II who have fully recovered from a compensable injury (as defined in subchapter I of chapter 81 of title 5, United States Code) more than 1 year after they began receiving compensation and who apply for reappointment

within 30 days of the date of cessation of compensation.

* * * * *

(5 U.S.C. 1302, 3301, 3302, 8151; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

(3) Section 353.102, Definitions, is amended to include injured employees in the legislative and judicial branches. § 353.301 is amended to clarify that certain injured employees can be entitled to priority consideration rather than mandatory restoration. § 353.302 is amended to clarify that the entitlement to restoration extends not just to the last position held, but to an equivalent position. A new § 353.307 is added specifying the entitlement of injured employees who take longer than 1 year to recover, and former § 353.307 is renumbered § 353.308. § 353.401(b) is amended to clarify that injured employees in the judicial and legislative branches also have appeal rights to the Commission, and a new § 353.401(a)(3) is added clarifying the appeal rights of injured employees who are not entitled to mandatory restoration.

PART 353—RESTORATION TO DUTY

Subpart A—General Provisions

§ 353.102 Definitions.

In this Part:

(a) "Agency" means (1) any department, independent establishment, agency, or corporation in the executive branch, including the U.S. Postal Service and Postal Rate Commission, (2) the government of the District of Columbia, and (3) with respect to restoration following a compensable injury, any agency in the legislative and judicial branches or other employing organization listed in 5 U.S.C. 8101(1).

* * * * *

Subpart C—Agency Obligation To Restore

§ 353.301 Extent of agency's obligation and how discharged.

When an employee is entitled to restoration under §§ 2021 or 2024 (a), (b), or (c) of title 38, United States Code, or to restoration or priority consideration under 5 U.S.C. 8151, the agency shall follow the requirements of this subpart.

§ 353.302 Time limit for restoration.

* * * * *

(b) An employee who has fully recovered from an injury or disability within 1 year after the date of commencement of compensation, or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the United States, is entitled to resume his or her former position (or an equivalent one) immediately upon cessation of compensation.

* * * * *

§ 353.307 Injured employees who take longer than 1 year to recover.

An employee who was separated because of a compensable injury and whose recovery takes longer than 1 year from the date compensation began (or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the United States), is entitled to priority consideration for restoration to the position he or she left or an equivalent one provided he or she applies for reappointment within 30 days of cessation of compensation. (See Parts 302 and 330 of this chapter for more information on how this may be accomplished for the excepted and competitive services, respectively.)

§ 353.308 Notice of right of appeal.

(a) When an agency refuses to restore, or determines that it is not feasible to restore an employee under the provisions of law and this part, it shall notify the employee in writing of the reasons for its decision, of his or her right to appeal to the Commission, and of the time limit applicable to the filing of an appeal. The agency shall forward a copy of the notice to the Commission.

(b) When an agency restores an employee it shall notify the employee that he or she is being restored in accordance with the requirements of § 353.303. The agency shall also inform the employee that he or she has 15 days in which to appeal to the Commission a restoration that he or she believes does not conform to the requirements of this subpart.

Subpart D—Appeals To the Commission

§ 353.401 Appeals to the Comission.

(a) *Executive branch and District of Columbia employees.*

* * *

(3) Injured employees who partially recover within 1 year of the date they begin receiving compensation may appeal to the Commission for a determination of whether their agencies are acting arbitrarily and capriciously in denying them restoration. Injured employees who fully recover more than 1 year after they begin receiving compensation may appeal as provided for in Parts 302 and 330 of this chapter.

(b) *Other employees.* Other employees covered by section 353.103 of this chapter are entitled to appeal restoration to the Commission and may do so not later than 15 calendar days after expiration of any period specified by law for applying for restoration. If a period is not specified by law the employee may appeal to the Commission as specified under paragraph (a) of this section.

(38 U.S.C. 2021, et seq., 5 U.S.C. 8151.)

(4) Section 772.301 is amended to provide appeal rights to injured employees in the excepted service who are eligible for inclusion on an agency's reemployment list.

PART 772—APPEALS TO THE COMMISSION

* * * * *

Subpart C—Commission's Appellate Review of Actions Against Employees

§ 772.301 Coverage.

(a) *Agency-initiated actions.* Except as otherwise noted, this subpart applies to appeals to the Federal Employees Appeals Authority (hereinafter referred to as the Appeals Authority) under Subpart E of Part 302 of this chapter, Subpart H of Part 315 of this chapter, Subpart B of Part 330 of this chapter, Subpart I of Part 351 of this chapter, Subparts B, C, E, and F of Part 352 of this chapter, Subpart D of Part 353 of this chapter, Subparts D and E of Part 531 of this chapter, and Subparts B and C of Part 752 of this chapter.

(5 U.S.C. SS 1302, 3301, 3302, 5115, 5388, 7512, 7701, 8347; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; E.O. 11491, 3 CFR 1966-1970 Comp., p. 803.)

NOTE.—The Civil Service Commission 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.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1308 Filed 1-16-78; 8:45 am]

[3410-08]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No. 91]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

CANNING AND PROCESSING TOMATO ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule changes the provisions of the Canning and Process-

ing Tomato Endorsement, which now only applies to Ohio, to permit the offer of tomato crop insurance to be extended to California.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Canning and Processing Tomato Endorsement, as found in 7 CFR 401.137 (33 FR 12665, September 6, 1968) in three instances. The current endorsement applies only to Ohio. By making the following three changes, such provisions will then be applicable to California:

1. Provide in section 4 the date of October 20 as the end of the insurance period in California which conforms to the normal harvest season in that state.

2. Exclude from section 6(c), with respect to California, the provisions regarding inspection of the vines. Since all tomatoes in California are machine harvested, as contrasted with mostly hand harvested in Ohio, inspection of the vines in California would not be necessary.

3. Provide in section 8 the date of February 20 as the termination for indebtedness date for California which conforms to the start of the planting season in that State.

In addition to the above, 7 CFR 401.103(a), as amended (32 FR 15911, November 21, 1967) would be amended in the table of closing dates at the end thereof to provide a closing date for California for the accepting of applications for tomato crop insurance.

Since California producers need to be notified of these changes immediately in order that they can determine whether to carry crop insurance on the 1978 crop, the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest. Therefore, such amendments are issued without compliance to such procedure.

FINAL RULE

1. The tomato item in 7 CFR 401.103(a) is amended to read as set forth below:

§ 401.103 Application for insurance.

(a) * * *

CLOSING DATES

* * * * *

CANNING AND PROCESSING TOMATOES

California	Feb. 20.
Ohio	May 10.

* * * * *

2. Section 4, paragraph 6(c), and the schedule in section 8 of 7 CFR 401.137 The Canning and Processing Tomato Endorsement is amended to read as set forth below effective with the 1978 and succeeding crop years:

§ 401.137 The canning and processing tomato endorsement.

* * * * *

4. *Insurance period.* Insurance on any insured acreage shall attach at the time the tomatoes are planted. Insurance shall cease upon removal of the insured crop from the field, harvest, final adjustment of loss, or when the crop is deemed destroyed, and it is not practical to replant by the date shown on the actuarial table, whichever occurs first, but in no event shall insurance remain in effect later than October 10 in Ohio and October 20 in California of the calendar year in which the insured crop is normally harvested.

* * * * *

6. *Claims for loss.* * * *

(c) Except in California, the tomato vines on any insured acreage with respect to which a loss is claimed shall not be destroyed until the Corporation makes an inspection. The Corporation reserves the right to reject a claim for loss if the insured disregards this provision as to any acreage involved thereunder.

* * * * *

8. *Cancellation and termination for indebtedness dates.*

* * * * *

State	Cancellation date	Termination date for indebtedness
California	Dec. 31	Feb. 20
Ohio	do	May 10

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation 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.

Approved by the Board of Directors on January 10, 1978.

Effective date: December 1, 1977.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 78-1179 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 90]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

RICE ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule changes the provisions of the Rice Endorsement, which now only applies to Arkansas, Mississippi, Louisiana, and Texas, to permit the offer of rice crop insurance to be made in California, and changes the rice milling yield provisions to more nearly conform with the actual milling yields of various varieties of rice in all States.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Rice Endorsement, as found in 7 CFR 401.132 (33 FR 8263, June 4, 1968, as amended by Amendment No. 57, 39 FR 32127, September 5, 1974), in two instances. The current regulations apply to rice grown only in Arkansas, Mississippi, Louisiana, and Texas. By making the following change, such provisions will then be applicable to California where the Corporation intends to offer rice crop insurance effective with the 1978 crop year: By excluding the seeding provisions of Section 2(c) of the Rice Endorsement, with respect to California. Seeding restrictions of Section 2(c) are not necessary in California since rice can be grown continuously on the same acreage with no decrease in yield in that State.

In addition, the milling yield provisions of Section 5(f) of the Rice Endorsement are amended as indicated below to more nearly conform to the actual milling yields for various varie-

ties of rice grown in all rice crop insurance States. Since producers need to be notified of these changes immediately in order that they can determine whether to carry crop insurance on the 1978 crop, the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest. Therefore, the amendment will be issued without compliance with such procedure.

FINAL RULE

Item 2(c) and paragraph 5(f) of 7 CFR 401.132 The Rice Endoresement, are amended to read as set forth below effective with the 1978 crop year:

§ 401.132 The rice endorsement.

* * * * *

2. *Insured crop.* * * *

(c) Except in California, seeded on acreage which was seeded to rice for the two preceding years, or

* * * * *

5. *Claims for loss.* * * *

(f) Notwithstanding any other provision of this section for determining production to be counted, in any case where the quality of any production of threshed rough rice is reduced solely by insured causes occurring within the insurance period to the extent that the value per pound, as determined by the Corporation, is less than the market price at the nearest mill center, at the time the loss is adjusted, for the same variety of rough rice grading U.S. No. 3 (determined in accordance with Official Grain Standards of the United States) with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for the long grain varieties (whole kernels) and 68 pounds total milling yield (heads, second heads, screenings and brewers) and such rice, if properly handled, would not have a value equal to or greater than such market price, the number of pounds of such rice to be counted shall be adjusted by (1) dividing the value per pound of the damaged rice, as determined by the Corporation, by the market price per pound at the nearest mill center, at the time the loss is adjusted for the same variety of rough rice grading U.S. No. 3 with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for the long grain varieties, and 68 pounds total milling yield (heads, second heads, screenings and brewers), and (2) multiplying the result thus obtained by the number of pounds of production of such damaged rice. Production to be counted for any threshed rice with a moisture content of 15 percent or more not qualifying for the adjustment provided above shall be reduced 1.2 percent for each full one percent of moisture above 14 percent.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation 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.

Approved by the Board of Directors on January 10, 1978.

Effective: December 1, 1977.

PETER F. COLE,
Secretary Federal Crop Insurance Corporation.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 78-1178 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 1]

PART 404—WESTERN UNITED STATES APPLE CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

DATE CHANGES

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule changes the Western United States Apple Crop Insurance Regulations to provide proper insurance dates to permit such crop insurance to be offered in Yakima County, Wash.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending 7 CFR Part 404 (41 FR 52289, Nov. 29, 1976) in four instances. The present Western United States Apple Crop Insurance Regulations name selected counties where such insurance is offered with differing insurance dates and provide for a final date of December 31 for an insured to change the amount of insurance. The changes indicated below will provide the proper insurance dates for the insuring of apples in Yakima County, Wash., such county already approved for such insurance by the Board of Directors, and establish the date for changing the amount of insurance to coincide with the closing date for accepting applications.

Since producers need to be notified of these changes immediately in order that they can determine whether to carry crop insurance on the 1978 crop, the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest. Therefore, the changes set forth below are issued without compliance with such procedure.

FINAL RULE

Accordingly, 7 CFR Part 404, is amended as set forth below, effective with the 1978 and succeeding crop years:

1. The second sentence of § 404.22 is amended to read as follows:

§ 404.22 Application for insurance.

* * * The closing date for the taking of applications shall be the February 28 (Mar. 15 in Chelan, Douglas, Okanogan, and Yakima Counties, Wash.) immediately preceding the beginning of the crop year. * * *

2. Subsections 4 (c) and (g) and section 6 of the Western United States Apple Insurance Policy contained in § 404.25 are amended to read as follows:

§ 404.25 The apple insurance policy.

* * * * *

(c) The contract shall terminate if the premium for any crop year is not paid by February 28 (March 15 in Chelan, Douglas, Okanogan, and Yakima Counties, Wash.) following the calendar year in which insurance attached: *Provided,* That the date for payment for a premium (1) deducted from a loss claim shall be the date the insured signs such claim; or (2) deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

* * * * *

(g) For any crop year, the insured with the consent of the Corporation, may change the amount of insurance per acre which was in effect for any prior crop year by so notifying the office for the county in writing at any time before the closing date for filing applications for the year.

* * * * *

6. *Insurance period.* Insurance attaches each crop year on March 1 (March 16 in Chelan, Douglas, Okanogan, and Yakima Counties, Wash.) and ceases upon the earlier of harvest or October 31 of the crop year.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the provisions of the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation 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.

Adopted by the Board of Directors on January 10, 1978.

Effective date: December 1, 1977.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved by:
BOB BERGLAND,
Secretary.

[FR Doc. 78-1180 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 86]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

TOBACCO CROP INSURANCE ENDORSEMENT (DOLLAR AMOUNT OF INSURANCE)

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the tobacco crop insurance endorsement (dollar amount of insurance) as found in 7 CFR 401.141 (33 FR 12669), published in the FEDERAL REGISTER on September 6, 1968, as Amendment No. 17 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent, and by changing the date for the end of the insurance period from September 30 to October 31 to reflect more accurately the date when a determination of the value of the tobacco is made on the warehouse floor. These changes are being made to reflect a more accurate proportionate cost of production prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred by the insured to cover these costs more fully.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Tobacco Crop Insurance Endorsement (Dollar Amount of Insurance), effective with the 1978 and succeeding crop years by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent to reflect more accurately the proportionate cost of production prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred by the insured to cover more fully these costs. In addition, the date for the end of the insurance period for Type 14 Tobacco is changed from September 30 to October 31 to reflect more accurately the date for determination of the value of the tobacco on the warehouse floor at the time of sale. Notice of any changes must be given to insureds by not later than January 15, 1978, in order to be effective for the 1978 crop year. It is estimated, however, that about 30 days will be required to print new program documents and make other necessary changes in the program, after this amendment becomes effective. Accordingly, there would not be sufficient time to put the amendment into effect if it were to be delayed until after issuance of a notice of proposed rulemaking and opportunity for comments. Therefore, the Corporation has found and determined that compliance with the procedure for notice and public participation is impracticable and contrary to the public interest. Therefore, Amendment No. 86 is issued without compliance with such procedure.

FINAL RULE

Accordingly, 7 CFR 401.141, the Tobacco Crop Insurance Endorsement (Dollar Amount of Insurance) is amended as set forth below, effective with the 1978 crop year, until amended or superseded. The provisions of 7 CFR 401.141, (33 FR 12669), published in the FEDERAL REGISTER on September 6, 1968, effective for the 1977 crop year, shall remain in effect for the 1977 crop year.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), 7 CFR 401.141 is amended, effective with the 1978 crop year by amending sections 3(a) and 3(b), and the second paragraph of section 5(c) to read as follows:

§ 401.141 Tobacco crop insurance endorsement (dollar amount of insurance).

* * * * *

3. *Insurance period.* * * *

(a) For the following types later than the applicable date set forth below immediately following the normal harvest period:

Type of tobacco:	*Date*
11	Jan. 31.
12	Dec. 31.
13	Nov. 30.
14	Oct. 31.
21, 22, 23, 41, 54, and 55	Mar. 31.
31, 35, and 36	Feb. 28.

and (b) for type 32 tobacco, the August 31 of the next succeeding calendar year following the calendar year in which the crop was planted.

* * * * *

5. *Claims for loss.* * * *

(c) * * * The value of the total production to be counted for a unit shall be determined by the Corporation, and subject to the provisions hereinafter, shall include the value of all harvested production and the value of any appraisals made by the Corporation for unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the value of the total production to be counted on any acreage of tobacco: (1) Not harvested nor considered as harvested within the meaning of the term "harvested" shall be not less than 35 percent of the amount of insurance for such acreage, except as to the acreage referred to in the following items (2) and (3); (2) which is abandoned or put to another use without prior written consent of the Corporation shall be the amount of insurance provided for such acreage; and (3) which is damaged solely by an uninsured cause shall be not less than the amount of insurance provided for such acreage.

* * * * *

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation 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.

Approved by the Board of Directors on January 10, 1978.

Effective: October 31, 1977.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 78-1192 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 87]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

BURLEY TOBACCO POUNDAGE QUOTA ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Burley Tobacco Poundage Quota Endorsement as found in 7 CFR 401.148, published in the FEDERAL REGISTER on December 10, 1976 (41 FR 53971), as Amendment No. 79 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent. This increase will more accurately reflect the proportionate cost of production incurred by the insured prior to harvesting, and will increase the amount of insurance when such harvesting costs are incurred to cover those costs more fully.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation, is amending the Burley Tobacco Poundage Quota Endorsement (41 FR 53971), effective with the 1978 and succeeding crop years by increasing the minimum value of the total production to be counted from 20 percent to 35 percent. It is felt that this increase will reflect more accurately the proportionate cost of production incurred by an insured prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred to cover more fully these costs. Notice of any changes must be given to insureds by not later than January 15, 1978, in order to be effective for the 1978 crop year. It is estimated, however, that about 30 days will be required to print new program documents and make other necessary changes in the program, after this amendment becomes effective. Accordingly, there would not be sufficient time to put the amendment into effect if it were to be delayed until after issuance of a notice of proposed rule-making and opportunity for comments. Therefore, the Corporation has found and determined that compliance with the procedure for notice and public participation is impracticable and contrary to the public interest. Therefore, Amendment No. 87 is issued without compliance with such procedure.

FINAL RULE

Accordingly, 7 CFR 401.148 The Burley Tobacco Quota Endorsement is amended to read as set forth below, effective with the 1978 crop year, until amended or superseded. The provisions of 7 CFR 401.148, published in the FEDERAL REGISTER on December 10, 1976, (41 FR 53971), effective for the 1977 crop year, shall remain in effect for the 1977 crop year.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the second paragraph, first proviso of section 7(c) of the Burley Tobacco Poundage Quota Endorsement as found in 7 CFR 401.148, is hereby amended to read as follows:

§ 401.148 The Burley Tobacco Poundage Quota Endorsement.

* * * * *

7. *Claims for loss.* * * *
(c) * * *

Provided, That the value of total production to be counted for any tobacco acreage not harvested nor considered as harvested within the meaning of the term "harvested" shall never be less than 35 percent of the average amount of insurance per insured acre for the unit, except that for acreage abandoned or put to another use without prior written release by the Corporation and acreage damaged solely by uninsured causes, such value shall be at least the average amount of insurance per insured acre for the unit.

* * * * *

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation 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.

Approved by the Board of Directors on January 10, 1978.

Effective October 31, 1977.

PETER F. COLE,
Secretary,
Federal Crop Insurance Corp.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 78-1191 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 88]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

FLUE-CURED TOBACCO POUNDAGE QUOTA ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Flue-Cured Tobacco Poundage Quota Endorsement as found in 7 CFR 401.150 (41 FR 53969), published in the FEDERAL REGISTER on December 10, 1976, as Amendment No. 80 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent. This increase will more accurately reflect the proportionate cost of production incurred prior to harvesting, and will increase the amount of insurance when such harvesting costs are incurred to cover the costs more fully.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Flue-Cured Tobacco Poundage Quota Endorsement (41 FR 53969), effective with the 1978 and succeeding crop years by increasing the minimum value of the total production to be counted from 20 percent to 35 percent. It is felt that this increase will reflect more accurately the proportionate cost of production incurred by an insured prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred to cover more fully these costs.

Notice of any changes must be given to insureds by not later than January 15, 1978, in order to be effective for the 1978 crop year. It is estimated, however, that about 30 days will be required to print new program documents and make other necessary changes in the program, after this amendment becomes effective. Accordingly, there would not be sufficient time to put the amendment into effect if it were to be delayed until after issuance of a notice of proposed rulemaking and opportunity for comments. Therefore, the Corporation has found and determined that compliance with the procedure for notice and public participation is impracticable and contrary to the public interest. Therefore, Amendment No. 88 is issued without compliance with such procedure.

FINAL RULE

Accordingly, 7 CFR 401.150 the Flue-Cured Tobacco Poundage Quota Endorsement, is amended as set forth below, effective with the 1978 crop year, until amended or superseded.

The provisions of 7 CFR 401.150, published in the FEDERAL REGISTER on December 10, 1976 (41 FR 53969), ef-

fective for the 1977 crop year, shall remain in effect for the 1977 crop year. Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the second paragraph, first proviso of section 7(c) of the Flue-Cured Tobacco Poundage Quota Endorsement as found in 7 CFR 401.150, is hereby amended to read as follows:

§ 401.150 The Flue-Cured Tobacco Poundage Quota Endorsement.

* * * * *

7. *Claims for loss.* * * *
(c) * * *

Provided, That the value of the total production to be counted for any tobacco acreage not harvested nor considered as harvested within the meaning of the term "harvested" shall never be less than 35 percent of the average amount of insurance per insured acre for the unit, except that for acreage abandoned or put to another use without prior written consent by the Corporation and acreage damaged solely by uninsured causes, such values shall be at least the average amount of insurance per insured acre for the unit.

* * * * *

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring the preparation of an Inflation Impact statement under Executive Order 11821 and OMB Circular A-107.

Approved by the Board of Directors on January 10, 1978.

Effective October 31, 1977.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 78-1190 Filed 1-16-78; 8:45 am]

[3410-05]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1978 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to proclaim the result of the national marketing quota referendum with respect to the 1978 crop of extra long staple cotton held during the period December 12-15, 1977, each inclusive. The Agricultural Adjustment Act of 1938, as amended, requires that the result of the referendum be proclaimed within thirty days after the referendum. This rule is needed to satisfy this statutory requirement.

EFFECTIVE DATE: January 12, 1978.

ADDRESSES: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS), 202-447-7873.

SUPPLEMENTARY INFORMATION: It is essential that this rule be made effective as soon as possible since the proclamation of the result of the referendum is required by statute to be made not later than thirty days after the referendum. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR § 722.564 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in this section remains in full force and effect as to the crop to which it was applicable.

Accordingly, 7 CFR § 722.564 and the title of the subpart preceding 7 CFR § 722.564 are amended to read as follows:

Subpart—1978 Crop of Extra Long Staple Cotton, Acreage Allotments and Marketing Quotas.

* * * * *

§ 722.564 Result of the national marketing quota referendum for the 1978 crop of extra long staple cotton.

(a) *Referendum period.* The national marketing quota referendum for the 1978 crop of extra long staple cotton was held by mail ballot during the period December 12 to 15, 1977, each inclusive, in accordance with § 722.561 (42 FR 55597) and Part 717 of this chapter.

(b) *Farmers voting.* A total of 890 farmers engaged in the production of the 1977 crop of extra long staple cotton voted in the referendum. Of those voting, 799 farmers, or 89.8 percent, favored the 1978 national marketing quota, and 91 farmers, or 10.2 percent, opposed the 1978 national marketing quota.

(c) *1978 National marketing quota continues in effect.* The national marketing quota for the 1978 crop of extra long staple cotton of 97,000 bales proclaimed in § 722.558 (42 FR 55597) shall continue in effect since two-thirds or more of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended (7 U.S.C. 1343).)

NOTE.—An Economic Impact Statement as required under Executive Order 11821 and OMB Circular A-107 has been filed.

Signed at Washington, D.C. on January 11, 1978.

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

[FR Doc. 78-1177 Filed 1-12-78; 9:08 am]

[3410-02]

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

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Expenses 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 period, to be collected from handlers to support activities of the Citrus Administrative Committee which locally administers the Federal marketing order covering the specified varieties of Florida citrus fruit.

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

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On November 4, 1977, notice was published in the FEDERAL REGISTER (42 FR 57694) inviting written comments not later than November 28, 1977, on proposed expenses and rate of assessment, under Marketing Order No. 905, as amended (7 CFR Part 905, 42 FR 59367, 61853), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. 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 matters presented, including the proposals in the notice, it is found that:

§ 905.216 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Citrus Administrative Committee during the period August 1, 1977, through July 31, 1978, will amount to $221,225.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 905.41, is fixed at $0.00275 per four-fifths bushel of fruit, whether in bulk or in any container.

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

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

Dated: January 12, 1978.

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

[FR Doc. 78-1234 Filed 1-16-78; 8:45 am]

[3410-02]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Expenses and Rates of Assessment for the 1977-78 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These regulations authorize expenses and rates of assessment for the 1977-78 fiscal period, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering Florida grapefruit.

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

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On December 16, 1977, notice was published in the FEDERAL REGISTER (42 FR 63426) inviting written comments not later than December 30, 1977, on proposed expenses and rates of assessment under Marketing Order Nos. 912 and 913, both as amended (7 CFR Part 912; 42 FR 4811, and Part 913) regulating the handling of grapefruit grown in Florida. None were received. These programs are 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:

MARKETING ORDER 912

§ 912.217 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during fiscal period August 1, 1977, through July 31, 1978, will amount to $26,500.

(b) The rate of assessment for said period payable by each handler in accordance with § 912.41 is fixed at $0.001 per carton (⅘ bushel) of grapefruit.

MARKETING ORDER 913

§ 913.213 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during fiscal period August 1, 1977, through July 31, 1978, will amount to $30,675.

(b) The rate of assessment for said period payable by each handler in accordance with § 913.31 is fixed at $0.0045 per standard packed box (1⅗ bushel) of grapefruit.

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

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

Dated: January 11, 1978.

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

[FR Doc. 78-1236 Filed 1-16-78; 8:45 am]

[3410-02]

PART 916—NECTARINES GROWN IN CALIFORNIA

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

Increases in Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These regulations authorize increases in expenses for the 1977-78 fiscal year, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering California nectarines, pears, plums, and peaches.

DATES: Effective March 1, 1977, through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On December 19, 1977, notice was published in the FEDERAL REGISTER (42 FR 63646) inviting written comments not later than January 3, 1978, on proposed increases in expenses, under Marketing Order Nos. 916 and 917, both as amended (7 CFR Parts 916 and 917), respectively, regulating the handling of fresh nectarines, pears, plums, and peaches grown in California. None were received. These programs are 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 the provisions of § 916.216 (42 FR 34499); § 917.217 (42 FR 37793); § 917.218 (42 FR 37794); and § 917.219 (42 FR 35827) are amended to read as follows:

MARKETING ORDER 916

§ 916.216 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Nectarine Administrative Committee during the fiscal year March 1, 1977, through February 28, 1978, will amount to $969,166.

* * * * *

MARKETING ORDER 917

§ 917.217 Pear Commodity Committee expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Pear Commodity Committee during the fiscal period March 1, 1977, through February 28, 1978, will amount to $590,771.

* * * * *

§ 917.218 Plum Commodity Committee expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Plum Commodity Committee during the fiscal period March 1, 1977, through February 28, 1978, will amount to $1,063,546.

* * * * *

§ 917.219 Peach Commodity Committee expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Peach Commodity Committee during the fiscal period March 1, 1977,

through February 28, 1978, will amount to $911,000.

* * * * *

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as (1) notice of these proposed rules were published in the FEDERAL REGISTER and no comments were received; (2) the committees need to promptly meet certain financial obligations incurred under the provisions of these marketing orders which are in excess of currently authorized expenditures; and (3) no increase in the assessment rate is necessary as income will be adequate to cover the increased expenditures.

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

Dated: January 11, 1978.

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

[FR Doc. 78-1238 Filed 1-16-78; 8:45 am]

[3410-02]

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

[Amdt. 1]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment relieves on January 15 and 22, 1978, the Sunday packaging prohibition. Recent rains in California production areas have reduced winter lettuce harvests. This will promote orderly marketing by allowing the south Texas industry additional operating time to satisfy larger lettuce orders.

EFFECTIVE DATE: January 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment is based upon recommendations made January 11, 1978, by the South Texas Lettuce Committee, which was established under the order and is responsible for its local administration. It is hereby found that the amendment which follows will tend to effectuate the declared policy of the act.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This amendment must become effective immediately if producers are to derive any benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of lettuce grown in the production area.

Regulation, as amended.

In §971.318 (42 FR 59373) the introductory paragraph is hereby amended by adding the following to it:

§971.318 Handling regulation.

* * *, except that the prohibition against the packing of lettuce on Sundays shall not apply on January 15 and 22, 1978.

* * * * *

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

Effective date: Dated January 12, 1978, to become effective January 15, 1978.

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

[FR Doc. 78-1290 Filed 1-16-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

Exemption of Persons Using Spark Gap Irradiators Containing Cobalt-60

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is exempting from licensing and regulatory requirements persons using nuclear material near the spark gap of oil furnaces to prevent ignition problems. The exemption, requested by Ray Burner Co., does not apply to the manufacture or import of the spark gap irradiators. The exemption covers the use of the spark gap irradiators in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

EFFECTIVE DATE: February 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Jim Henry, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6910.

SUPPLEMENTARY INFORMATION: By letter dated May 18, 1973, the Ray Burner Co. of San Francisco, Calif., filed a petition for rule making (PRM 30-54) with the Atomic Energy Commission requesting an exemption from licensing requirements for spark gap irradiators containing not more than 1 microcurie of cobalt-60 in plated or alloy form. This notice of rule making responds to the request of Ray Burner Co.

BACKGROUND

On October 24, 1975, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (40 FR 49801) a proposed amendment of its regulation 10 CFR Part 30 which would exempt from licensing and regulatory requirements the receipt, possession, use, transfer, export, ownership, and acquisition of spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendment and a draft environmental impact statement by December 8, 1975. After consideration of the comments and other factors involved, the Commission has adopted the amendment. The text of the amendment set out below differs from the text of the proposed amendment published October 24, 1975, by excluding from the exemption the use of spark gap irradiators in oil burners having a firing rate of not more than 3 gallons per hour (11.4 liters per hour).

DISCUSSION OF COMMENTS

Two commentators observed that the exemption as proposed did not specifically prohibit use of the spark gap irradiators in domestic oil burners and therefore the potential market is quite large. In the notice published October 24, 1975, the Commission stated (40 FR 49801) that in typical applications, the spark gap irradiators are used in boilers, power plants, and

other heavy duty equipment, but not in private home furnaces or internal combustion engines.

The Commission's statement was based on the engineering characteristics of small oil burners (3 gallons per hour maximum main flame input) and their associated safety control timing (90 seconds maximum flame establishing period). A spark delay of more than 90 seconds would be indicative of permanent arc failure (or other malfunction) rather than temporary arc failure attributable to the statistical time lag between impressment of voltage and formation of a spark in an igniter. Because the time lag is statistical, there is a possibility that the delay may be several seconds, but the probability of the delay being 90 seconds or longer is extremely remote.

Based on these factors, there is neither a need nor a market for spark gap irradiators in small automatically fired warm-air furnaces, small floor mounted unit heaters, and similar appliances used in private homes and commercial and industrial establishments. This conclusion is recognized by changing the text of § 30.15(a)(10) to exclude from the exemption the use of spark gap irradiators in oil burners having a firing rate of not more than 3 gallons per hour (11.4 liters per hour). The exemption does not preclude the use of spark gap irradiators in private home oil burners if they have a firing rate greater than 3 gallons per hour (11.4 liters per hour).

Discussion of Final Rule

The Commission has found that exemption from licensing requirments for the receipt, possession, use, transfer, export, ownership, and acquisition of spark gap irradiators containing not more than 1 microcurie of cobalt-60 under the conditions set forth below will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

The exemption does not apply to the manufacture or import for sale or distribution of the spark gap irradiators. Criteria for the issuance of a specific license to conduct such activities and quality control and reporting requirements are set forth in §§ 32.14, 32.15, 32.16, and 32.110 of 10 CFR Part 32, "Specific Licenses to Manufacture, Distribute, or Import Certain Items Containing Byproduct Material." Prototype tests for spark gap irradiators containing cobalt-60 are not specified in the regulation. Applicants for specific licenses are required by § 32.14(b)(4) to submit procedures for and results of prototype tests. The Nuclear Regulatory Commission will either approve the tests or require submission of acceptable tests to demonstrate that the material will not become detached from the product and that the byproduct material will not be released to the environment under the most severe conditions likely to be encountered in normal use of the product. The testing requirements will be incorporated into the specific license.

The amendment, in effect, makes the manufacturer or importer responsible for providing an approved product for use in electrically ignited fuel oil burners. The requirement for use in electrically ignited fuel oil burners will be met prior to the transfer of the product for use under § 30.15 by conditioning each specific license issued to the manufacturer or importer with the requirement of incorporating a spark gap irradiator containing not more than 1 microcurie of cobalt-60 in either an electrically ignited fuel oil burner or a container labeled with instructions for installation in such a burner. In addition, the manufacturer or importer will be authorized to transfer these spark gap irradiators to a person holding a specific license provided such specific license contains similar transfer conditions to meet the end use requirements of the exemption. The subsequent possession, use, and disposal by all other persons will be exempt from licensing and regulatory requirements of the Commission.

Under the provisions of § 150.15(a)(6) of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," the transfer of possession or control by persons in Agreement States who manufacture, process, or produce spark gap irradiators containing cobalt-60 for use by exempt persons are subject to the Commission's licensing and regulatory requirements, even though the spark gap irradiators are manufactured under an Agreement State license. Such manufacturers, processors, or producers wishing to transfer possession or control of spark gap irradiators containing cobalt-60 for use by exempt persons will be required to obtain a specific license issued by the Commission under § 32.14 of 10 CFR Part 32.

Availability of Final Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, and the Commission's regulations in 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," the Commission's Office of Standards Development has prepared a final environmental impact statement in connection with this action to amend Part 30 of the Commission's regulations. The statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. In about two weeks after publication of this notice in the Federal Register, copies of the statement will be available as NUREG-0319 from the National Technical Information Service, Springfield, Va. 22161. The price will be $6.00 for paper copy and $3.00 for microfiche.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 30 is published as a document subject to codification.

Section 30.15 of 10 CFR Part 30 is amended by adding a new paragraph (a)(10) to read as follows:

§ 30.15 Certain items containing byproduct material.

(a) Except for persons who apply byproduct material to, or persons who incorporate byproduct material into, the following products, or persons who import for sale or distribution the following products containing byproduct material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 20 and 30-36 of this chapter to the extent that such person receives, possesses, uses, transfers, exports, owns, or acquires the following products:

* * * * *

(10) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

(Secs. 81, 161, Pub. L. 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 78-1173 Filed 1-16-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

PART 371—ADVANCE BOOKING CHARTERS

PART 372a—TRAVEL GROUP CHARTERS

PART 378—INCLUSIVE TOUR CHARTERS

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTER

Interpretations

AGENCY: Civil Aeronautics Board.

ACTION: Interpretation of existing rules: 14 CFR 371.27, 371.28, 372a.22, 372a.24, 378.12, 378.13, 378a.27, 378a.28.

SUMMARY: This interpretive notice informs certificated air carriers and indirect air carriers that the Board will no longer accept passenger charter prospectuses that name more than one origination or destination point, unless the solicitation materials clearly inform the public of the true nature of the arrangements the charter operator has made with the direct air carrier. The Board is acting on its own initiative, because of its concern that so-called "area filings" are misleading the public as to the actual origins or destinations of charter flights.

DATES: Issued: January 4, 1978; effective: February 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Patricia T. Szrom, Supplementary Services Division, Bureau of Operating Rights, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, 202-673-5088.

SUPPLEMENTARY INFORMATION: The following letter was sent to certificated air carriers and indirect air carriers of passengers on January 4, 1978.

Subject: Interpretation of the Board's Special Regulations affecting "area" charter filings.

So-called "area" charter filings have become a source of increasing problems for charter participants. Area filings are a marketing concept first permitted in a limited context by Order E-26578, dated March 27, 1968, and Order E-26682, dated April 18, 1968. In these orders, the Board adopted a policy under which a tour operator could file a tour prospectus listing one or more cities over a broad area of the United States as the possible point of origin for a particular tour. This procedure was adopted to eliminate the need for operators to file minor amendments changing the point of departure, and thus to alleviate an administrative burden on the operator and the Board. In our opinion this policy is now being abused.

When the Board adopted these orders, its intention was to alleviate the problems faced by tour operators who market their programs by soliciting organizations rather than individuals. At the present time, however, a tour operator who files an "area-origination" program is often soliciting individuals from numerous cities at the same time, stating dates and prices, and giving the impression that the tour will originate from all of the cities listed, when, in reality, there is only one flight leaving from only one of the various cities. The other cities are dropped, sometimes at the last moment, and unsuspecting tour participants find their vacation plans disrupted.

A similar problem sometimes occurs with "area-destination" filings. Some tour operators have filed prospectuses naming several cities as possible destinations for the tour. For example, the tour operator might contract with a carrier for a plane to leave from New York and fly to either Rome, London, or Paris, depending on the response received for each destination. The solicitation material, however, indicates that on each date shown, there will be a tour landing in each of the cities listed, when in reality, there is to be only one flight going to only one city.

In our view, this growing practice goes far beyond the limited intent of the Board's previously pronounced policy, and can be permitted to continue only so long as the solicitation materials fully and fairly disclose to prospective participants the actual number of flights that will be operated. Therefore, effective 30 days from the date of this announcement, it will be the policy of the Board to reject charter prospectuses naming two or more origination (or destination) points for any one charter unless the solicitation materials clearly disclose the true nature of the arrangements the operator has made with the direct air carrier with respect to departure (or destination) points. For such a filing to be acceptable, the tour operator must clearly state whether any one particular point has definitely been selected as a departure (or destination) city, or whether the plane is to depart from (or fly to) only one of a number of alternative cities. For example, if only one flight per date will actually be operated, the solicitation material must state that the charter will originate from only one of the various cities listed and indicate the city most likely to be chosen. If there is a provision in the charter contract for stop-overs to pick up other passengers, the solicitation material must state that the tour will originate from only one of the various cities listed, but may stop at others (the maximum number of stop-overs should be specified) to enplane or deplane passengers. Failure of the advertising materials and operator/participant contract to disclose accurately the operator's arrangements for the itinerary of the charter will be regarded by the Board as a violation of the Special Regulations as they pertain to the filing of charter prospectuses (§§ 371.28, 372a.22, 378.13, and 378a.28) as well as a violation of the unfair and deceptive practices provisions (§§ 371.27, 372a.24, 378.12, 378a.27) of those regulations, and will therefore be grounds for rejection of such filings.

If you have any questions on this interpretation, please contact the Supplementary Services Division, Bureau of Operating Rights.

For the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-1193 Filed 1-16-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9059-0]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Trans World Accounts, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a Santa Rosa, Calif. debt collection agency to cease misrepresenting the likelihood or imminency of legal action; and to cease using, or placing in the hands of others, materials which simulate telegraphic communications, or which may otherwise mislead debtor recipients as to the nature, import or urgency of such communications.

DATES: Complaint, September 30, 1975; Final order, October 25, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

William A. Arbitman, Director, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102, 415-556-1270.

SUPPLEMENTARY INFORMATION: In the Matter of Trans World Accounts, Inc., a corporation, and Floyd T. Watkins, individually and as an officer of said corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-Coercing and Intimidating: § 13.356 Delinquent debtors. Subpart-Enforcing Dealings or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully.

Subpart-Furnishing Means and Instrumentalities of Misrepresentation or Deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation and deception. Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections; § 13.1370 Business methods, policies and practices. Subpart-Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts. Subpart-Threatening Suits, Not in Good Faith: § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter has been heard by the Commission upon the appeal of respondents' counsel from the initial decision and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying Opinion, has substantially denied the appeal.

It is ordered, That pages 1-42 of the initial decision of the administrative law judge are hereby adopted as the Findings of Fact and Conclusions of Law of the Commission.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying opinion.

---

[1] Copies of the Complaint, Initial Decision, Opinion, Dissenting Statement by Commissioner Collier and the Final Order filed with the original document.

It is further ordered, That the following Order to Cease and Desist be hereby entered:

ORDER

It is ordered, That respondents, Trans World Accounts, Inc., a corporation, its successors and assigns, and its officers, and Floyd T. Watkins, individually and as an officer of said corporation, and respondents agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using or placing in the hands of others for use, envelopes, letters, forms or any other materials which by their appearance, content, or otherwise, misrepresent that they are telegrams or a telegram.

2. Using or placing in the hands of others for use, envelopes, letters, forms or any other materials which by simulating telegrams or other methods or forms or types of communication misrepresent the nature, import, or urgency of any communication.

3. Misrepresenting directly or by implication, that legal action with respect to an alleged delinquent debt has been, is about to be, or may be initiated, or otherwise misrepresenting in any manner the likelihood or imminency of legal action.

4. Placing in the hands of others the means and instrumentalities to accomplish any of the matters prohibited in this order, or which fail to comply with the requirements of this order.

It is further ordered, That the respondent corporation shall distribute a copy of this order to each of its operating divisions or departments and to each of its present and future officers, agents, representatives, or employees engaged in any aspect of the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts, and that said respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the respondent corporation notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his employment with Trans World Accounts, Inc., and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the individual respondent named herein shall promptly notify the Commission of his affiliation with a new business or employment whose principal activities include the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts. Such notice shall include individual respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered, That the respondents herein shall, within sixty (60) days from the date this order becomes final, and periodically thereafter as required by the Federal Trade Commission, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

By the Commission, Commissioner Collier dissenting.

CAROL M. THOMAS,
Secretary.

DISSENTING STATEMENT OF COMMISSIONER COLLIER

In my opinion the record proof fails to support any reasonable interpretation that Trans World Accounts (TWA) threatened debtors with imminent and likely lawsuits. The challenged communications generally followed a two-part format. In the first part, TWA demanded immediate payment and sometimes demanded to be contacted by the debtor as an alternative to payment. In the second part TWA advised debtors (or suggested to them) that a failure to make the payment demanded "may" result in a lawsuit, sometimes an "immediate" one.

This record does not show that TWA's clients never brought lawsuits, "immediate" or otherwise. Three of the four of these clients who testified said either that they sued or that TWA sued for them. (Tr. 205-06, 210-12, 256.) The fourth client was not asked whether his employer sued. (Tr. 171-78.)

It cannot be discerned from this record, even in general terms, how much time elapsed between the sending of the letters that mentioned a lawsuit and the subsequent decision to sue. The majority concludes that a lawsuit is not "imminent" if it is not initiated during the letter series. I find no support in the record for placing this meaning on TWA's letters, and the record proof regarding clients' litigation policies is in disarray. The client witness who was asked the most probing questions about his firm's policy testified as follows:

Question (by complaint counsel): But if they—suppose a debtor has not responded at all after the first, second or third, would you let the series go to its conclusion?

Answer (by Mr. Anderson of Beckman Instruments): Yes. That's our policy.

Q. Then you would decide whether to bring a lawsuit; is that correct?

A. Yes, unless we heard through other sources, either from a salesman that goes by and sees them moving out of the building, or some evidence that would indicate that, "Hey, they're closing up." Then we'd stop the service and file suit. (Tr. 257)

This hardly proves that lawsuits were not brought before the series expired.[2]

What were the chances of a lawsuit when the challenged letters went out and afterwards? What were the determinants? Were they different between respondents' "commercial" and "noncommercial" clients? In all these matters, the Commission is asked to resolve silence against the respondents.[3]

---

[2] The same client earlier testified: "If * * * the customer says, 'Well, look, there isn't any way that I can pay you because at the advice of counsel we're thinking seriously of filing bankruptcy, we have such a cash flow problem that we really don't know whether we're going to stay in business,' we'll stop the TWA service and immediately turn the account over to an attorney." (Tr. 250)

[3] Rather than on the testimony, which was inconclusive, complaint counsel may be relying on respondents' admission that certain communications mentioning the possibility of a lawsuit "were sent by Trans World Accounts, Inc. to debtors in instances where the creditor had not assigned the debts involved to Trans World Accounts, Inc. until after the final notice in the series had been sent." CX 40 at p. 6, CX 41c. This does not prove that TWA's clients did not bring suit during the series, assuming arguendo that

Footnote continued on next page.

If the communications had told debtors that the respondents or their clients would definitely sue, or even, that they would probably sue if payment were not made, complaint counsel might have proved its case. But the respondents were careful, to say only that a lawsuit "may" be brought.

In deciding for liability, the majority gives "may" a statistical meaning that runs against common usage. Although the majority purports to do this only for the sake of clarifying the order, it is clear that this statistical conception of "may" is the root of its finding of liability. The word "may" usually conveys uncertainty of a fairly elastic nature, and I think that it must have been understood in this way by the debtors who received the respondents' letters. So far as it is used to express volition, "may" conveys the absence of a present intention—certainly not the presence of one, as the majority suggests. Unlike the situations that we sometimes face where communications are hurled in staccato rhythm at partially attentive audiences of mass media, one can reasonably assume that readers of the morning mail will read and understand the common meaning of simple words.

The majority's decision effectively regulates the word "may" out of respondents' vocabulary, at least insofar as it can be used by them to express the possibility of a lawsuit. If respondents can establish that a debtor has a 51 percent chance of being sued, I do not see why they wouldn't say, "You will probably be sued" rather than "You may be sued." (Unless, of course, the majority also intends to establish a regulatory meaning for "probably" beyond what is commonly comprehended by that word.)

The public policy reasons that dictate this reworking of the English language are obscure to me. There is a public interest in consumers knowing that they may be sued, and possibly assessed costs, in time to head off the consequences.[4] If the majority believes that there will be time enough to locate debtors in a class that will probably be sued, I don't know the basis for that belief. A debtor may be more likely to have the means to pay a debt over a longer period of time than over a shorter one. I do not think we earn the gratitude of those consumers who will receive the shorter "notice periods" and quicker litigation decisions that the majority's language convention may inspire. Even if the long-term consequences of our language reform efforts are nil, as those who leave their debts unpaid learn not to trust the absence of mention of a lawsuit, there are bound to be some short-term costs of this reeducation process.

Having concluded that the text of the letters contains no misrepresentation, I believe that there is no public interest in entering and enforcing an order against respondents' practice of styling these communications "telegrams", "Trans-O-Grams" and the like.[5]

Clearly TWA would be permitted to call their communications telegrams if they had paid the price to Western Union. Western Union may—or may not—have a private right of action for TWA's conduct.[6]

In the ordinary trademark infringement case, the trademark holder's private right of action can protect the important interest that consumers have in getting what they have chosen, an interest that we also have a duty to protect. See *FTC* v. *Algoma Lumber Co.*, 291 U.S. 67 (1934); but see, *FTC* v. *Klesner*, 280 U.S. (1929). Here, however, the case is different. There is no question that TWA's clients got what they chose, and the recipients of these communications were not in a position to choose whether they were to receive a Trans World telegram (or Trans-O-Gram) or a Western Union telegram, because the recipients obviously were not buying the communications. The nature of the consumer injury in this case must be on a different plane than in the ordinary trademark infringement case. It is not apparent exactly what this consumer injury is. Surely it is not merely that respondents failed to pay Western Union.

The majority writes that respondents' practice of calling their communications telegrams is material, because "the obvious conclusion to be drawn from the receipt of a demand to pay, telegraphically communicated at substantial cost, is that precipitous action may follow if immediate response to the message is not made." Presumably this "immediate response" would be either payment of the debt or some communication by the debtor to the creditor.

There is no evidence on this record that shows that TWA's practice of styling its communications as "telegrams" induced consumers to pay their debts or communicate with their creditors. Two consumer affiants gave evidence of their impressions of respondents' communications.

Affiant Semien: "When my mother first showed me the billing notice, I thought it was a real telegram until I read it and realized it was a fake." (CX 44a)

Affiant Pere: "When I first received the collection notices, I thought they were real telegrams sent by Western Union." (CX 45a)

Both of these statements make clear to my mind that any misimpression was temporary and did not last long enough to induce payment or other prejudicial action by the debtor. A third consumer testified to the same effect:

Question (by respondents' counsel): [Y]ou received a Trans-O-Gram from Trans World Accounts?

Answer (by Mr. Doolittle): That's correct.

Q. And the first thing you wondered is whether it was something similar to a Mailgram?

A. That's correct.

Q. How long did that frame of mind exist?

A. Until I opened it. (Tr. 47-48)

On this evidence I am not willing to find as a matter of expertise that respondents' use of the telegram or Trans-O-Gram format was a "material" deception, even assuming that it was a deception at all. See *FTC* v. *Colgate-Palmolive Co.*, 380 U.S. 374, 392 (1965). At most, these symbols on the envelope may have led readers to be more attentive to the contents, but this ephemeral reaction is not the sort of public injury that I had thought Congress had charged the Commission with preventing.

Footnote continued from preceding page.

to be the relevant time period. Moreover, there was evidence and the ALJ found that "currently, TWA receives an assignment of the debt before the first letter is mailed in about 80-90 percent of all flat rate sales. I.D. 10. There was evidence that two years before trial this figure was 60 to 70 percent. (Tr. 70)

[4] A California statute, which governs a substantial part of respondents' operations, effectively conditions a debt collector's recovery of costs in municipal and justice courts upon his prior notice to the debtor that the debt collector "intended to commence legal action against the defendant and that legal action could result in a judgment against the defendant which would include the costs and necessary disbursements * * *" Cal. Code Civ. Proc. § 1031 (Deering's An. Supp. 1977) Obviously, this is a consumer protection measure, and I do not see that the interest that it guarantees is less important when a suit is only possible.

[5] The reach of the majority's holding on this issue is unclear. The record, buttressed by our experience in reviewing marketing practices, indicates that (fill-in-the-blank)-O-Grams are often used in promotional activities, ranging from soliciting political campaign contributions to sales of products. RX 7-19.

[6] Mr. Michael Borsella, patent and trademark attorney for Western Union, seems to admit in his affidavit that "the word 'telegram' is a dictionary word in the public domain." He objects not to the use of the word "telegram" but to the use of that word "on a spurious telegraphic format *together with a number of proprietary features ordinarily embodied in one or more of Western Union's formats.*" (Emphasis in original.) CX 43c. See, also CX 43d. While this objection may be more valid with regard to respondents' original "telegram" communication (CX 43e, CX 43f), it seems very weak with regard to the "Trans-O-Gram" format. *See Western Union Telegraph Co.* v. *ITT World Communications, Inc.*, 164 U.S.P.Q. 651 (Patent Office Trademark Trial and Appeal Board 1970) (editorial description).

The ALJ held that an incorrect "initial impression" is enough to make a violation, whether or not this initial misimpression induced any action.[7] I.D. at 32-33.

The "first contact" cases that he cites do not go so far as to read the materiality requirement out of Section 5. In each, the initial misimpression induced or could have induced consumers to take some action to their prejudice, such as taking a trip to the store, *Carter Products, Inc.* v. *FTC*, 186 F. 2d 821, 824, (7th Cir. 1951), consenting to a deceptive sales presentation, *FTC* v. *Standard Education Society*, 302 U.S. 112, 115 (1937), or answering a deceptive offer of employment, *Progress Tailoring Co.* v. *FTC*, 153 F. 2d 103, 104-05 (7th Cir. 1946).

Because, in my view, the text of the letters were not proved false and the use of the telegram format did not cause material deception, I would dismiss the complaint.

I believe that this result is consistent with the soon-to-be-effective Fair Debt Collection Practices Act, Pub. L. 95-109, which will comprehensively regulate deception and unfairness in the debt collection industry.

There is nothing in the Act or in its legislative history to suggest that the general prohibitory sections[8] set different standards for deception and unfairness than Section 5. Because I do not believe that respondents cognizably violated Section 5, I do not believe that they have violated these general sections.

Neither did the respondents violate the specific prohibitions of the Act. Section 807(5) prohibits "the threat to take any action that cannot legally be taken or is not intended to be taken." Nothing that the respondents said about the possibility of a lawsuit could reasonably be construed as a "threat", at least giving that term its plain meaning as Congress apparently intended.[9]

There are two specific provisions in the new Act that might be argued to bar the "telegram" and "Trans-O-Gram" formats. Section 807(9) prohibits "the use or distribution of any written communication * * * which creates a false impression as to its source * * *." I do not believe that respondents misrepresented the "source" of their communications within the meaning of the Act. Even if a consumer thought a Trans World telegram were a Western Union telegram, he would not be mistaken as to the source, because Western Union is a medium of messages, not a source of them. (CX 43c) A consumer could not possibly doubt from any of the respondents' communications on this record that the source was TWA. Moreover, both the prohibitory language associated with the language quoted above[10] and the Senate Report[11] make clear that the evil addressed by this provision is the practice of some debt collectors passing themselves off as government officials, attorneys or credit bureaus. There is no allegation of this kind of deception here.

The second specific provision that might be relevant to the respondents' practice of calling their communications telegrams and Trans-O-Grams is Section 808(8) which prohibits "using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business."

The interest protected by this provision is obviously the consumer's privacy from the awareness of others that he owes an uncollected debt. As the Senate Report explains, the section prohibits "using symbols on envelopes indicating that the contents pertain to debt collection." There would be little sense, from the perspective of avoiding deception, to read this section to permit use of the word "telegram" on the letter to the debtor and forbid it on the envelope.[12] Unless the respondents' use of the telegram and Trans-O-Gram formats links in the public mind their communications to the business of debt collection, I do not see how their use offends this subsection. Moreover, since this subsection expressly permits debt collectors to send telegrams, I cannot see how TWA's conduct contravenes its policy.

The majority clearly interprets respondents' statements to mean something different than my interpretation of them. If this were a case of a merchant describing his products in language susceptible of misunderstanding, I might be inclined to take another view. In such a case we are entitled to infer injury from the mere fact of misunderstanding of a material aspect of the transaction. *FTC* v. *Algoma Lumber Co.*, 291 U.S. 67, 78 (1934). But here the injury is more remote: It is the possibility that a debtor might because of his misunderstanding pay an unjust debt. In my view, the respondents' proven conduct does not make this a substantial risk. In any event, the real risks of this injury are regulated far more effectively by the new Fair Debt Collection Practices Act than they will be by the majority's order.

[FR Doc. 78-1199 Filed 1-16-78; 8:45 am]

---

[7] The ALJ found that the telegram format may have actually induced one consumer to work out an installment payment program. I.D. at 33. I reject this finding. The consumer to whom the ALJ refers is affiant Semien whose statement quoted supra indicates that she was disabused of her initial misimpression as soon as she opened the envelope.

[8] Section 807 provides: "A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt." Section 808 provides: "A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt."

[9] The Act expressly prohibits the Commission from interpreting its terms through administrative regulations. Fair Debt Collection Practices Act, Section 814(d). See S. Rep. No. 95-382, 95th Cong., 1st Sess. 6 (1977) (hereinafter cited as "Senate Report"). This feature was stressed in the House debate. 123 Cong. Rec. H2921 (daily ed. April 4, 1977) (remarks of Rep. Annunzio); 123 Cong. Rec. H2928 (daily ed. April 4, 1977) (remarks of Rep. Evans).

[10] The subsection 807(9) reads in full: "The use or distribution of any written communications which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.

[11] Senate Report at 8.

[12] This reading of subsection 808(8) is reinforced by subsection 804(5) which governs collector communications to third parties (not the debtor) and forbids the use of identifying symbols on both the envelope and the letter.

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5896, 34-14363, and IC-10089]

DEFINITIONS CONCERNING MULTIBANK COMMON TRUST FUNDS

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: These rules have the effect, provided certain conditions are met, of treating common trust funds for several banks in the same affiliated group ("multibank common trust funds") in the same manner as traditional single bank common trust funds which are ordinarily exempt from regulation as investment companies, and from the registration and reporting requirements normally applicable to publicity held companies and other issuers of securities. Some state laws permit multibank common trust funds, which under recent amendments to the federal tax laws may operate as nontaxable entities. In the absence of the rules now being adopted, multibank common trust funds might be treated differently under the Fed-

eral securities laws from single bank common trust funds.

EFFECTIVE DATE: January 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Lawrence R. Bardfeld, Esq., Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-376-8056.

SUPPLEMENTARY INFORMATION: Bank holding companies and representatives of the banking industry have recently indicated an interest in using "multibank common trust funds," i.e., common trust funds maintained by one constituent bank of a bank holding company for assets contributed thereto by the bank or by other constituent banks in the same holding company in their capacity as trustee, executor, administrator, or guardian. Some State laws allow such common trust funds, and recent Federal legislation permits such funds to be operated as nontaxable entities.[1]

At present, common trust funds maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian, and interests or participations therein, are exempted or excluded from provisions of the federal securities laws by section 3(a)(2) (15 U.S.C. 77c(a)(2)) of the Securities Act of 1933 (15 U.S.C. 77a et seq.) ("Securities Act"), section 3(a)(12) (15 U.S.C. 78c(a)(12)) and rule 12h-2 (17 CFR 240.12h-2) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) ("Exchange Act"), and section 3(c)(3) (15 U.S.C. 80a-3(c)(3)) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Investment Company Act").[2] Because the present definition of "common trust fund" in the Federal securities laws refers to a fund maintained by "a bank" for assets contributed to the fund by "such bank,"[3] it appears that, as presently drafted, the exclusionary and exemptive provisions in the Federal securities laws would not be available if one bank in a bank holding company maintained a common trust fund which included assets contributed by other bank members of the same holding company.

On October 28, 1977 the Commission published in the FEDERAL REGISTER (42 FR 56754) proposed rules which would define the term "common trust fund" so as to include such multi-bank common trust funds, and thus have the effect of exempting them from the provisions of the Investment Company Act. Also, under those rules interests or participations therein would be exempt from the registration requirements in section 5 (15 U.S.C. 77e) of the Securities Act and section 12(g) of the Exchange Act (15 U.S.C. 78*l*(g)), and be "exempted securities" under section 3(a)(12) of the Exchange Act.

PUBLIC COMMENTS ON THE PROPOSED RULES

The comments received concerning the proposed rules unanimously favored their adoption, supporting the rules both in concept and substance.

COMMISSION ACTION

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations, general rules and regulations, Securities Act of 1933, is hereby amended by adding a new § 230.132 to read as follows:

§ 230.132 Definition of "common trust fund" as used in section 3(a)(2) of the Act.

The term "common trust fund" as used in section 3(a)(2) of the Act (15 U.S.C. 77c(a)(2)) shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian, provided that:

(a) The common trust fund is operated in compliance with the same state and federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and

(b) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator, or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group.

* * * * *

(15 U.S.C. 77s(a).)

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

1. Part 240 of Chapter II of Title 17 of the Code of Federal Regulations, general rules and regulations, Securities Exchange Act of 1934, is hereby amended:

By revising paragraph (b) of § 240.12h-2 to read as follows:

§ 240.12h-2 Exemptions from registration under section 12(g) of the act.

* * * * *

(b) Any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian. For purposes of this paragraph (b), the term "common trust fund" shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian; *Provided*, That:

(1) The common trust fund is operated in compliance with the same state and federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and

(2) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group; and

* * * * *

(15 U.S.C. 78c(b), 781.)

2. Part 240 of Chapter II of Title 17 of the Code of Federal Regulations, general rules and regulations, Securities Exchange Act of 1934, is hereby amended by adding a new § 240.3a12-6 to read as follows:

§ 240.3a12-6 Definition of "common trust fund" as used in section 3(a)(12) of the act.

The term "common trust fund" as used in section 3(a)(12) of the Act (15 U.S.C. 78c(a)(12)) shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian; *Provided*, That:

(a) The common trust fund is operated in compliance with the same state

---

[1] Pub. L. No. 94-414, 90 Stat. 1273, amending 26 U.S.C. 584(a).

[2] These provisions apply only to common trust funds for assets contributed by a bank in a bona fide fiduciary capacity and incidental to the bank's traditional trust department activities.

[3] Section 3(c)(3) of the Investment Company Act uses the equivalent expression "the bank" instead of "such bank."

and federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and

(b) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator, or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group.

* * * * *

(15 U.S.C. 78c(b).)

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

3. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations, rules and regulations, Investment Company Act of 1940, is hereby amended by adding a new § 270.3c-4 to read as follows:

§ 270.3c-4 Definition of "common trust fund" as used in section 3(c)(3) of the Act.

The term "common trust fund" as used in section 3(c)(3) of the Act (15 U.S.C. 80a-3(c)(3)) shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian; *Provided*, That:

(a) The common trust fund is operated in compliance with the same State and Federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and

(b) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator, or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group.

* * * * *

(15 U.S.C. 80a-6(c), 80a-37(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 10, 1978.

[FR Doc. 78-1201 Filed 1-16-78; 8:45 am]

[1505-01]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76F-0420]

PART 176—INDIRECT FOOD ADDITIVES; PAPER AND PAPERBOARD COMPONENTS

Components of Paper and Paperboard in Contact With Aqueous and Fatty Foods

Correction

In FR Doc. 77-36861 appearing at page 65150 in the issue for Friday, December 30, 1977, in the table for § 176.170(b)(2), in the second column, under "List of substances," in the second line, "...azona-..." should have read "...azonia-...".

[1505-01]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0020]

PART 440—PENICILLIN ANTIBIOTIC DRUGS

Updating and Technical Revisions

Correction

In FR Doc. 77-33332 appearing at page 59852 in the issue for Tuesday, November 22, 1977:

1. The fourth line, first column, page 59858, should be designated as "d".

2. The eighth line, first column, page 59858, reading "d. By changing 'potassium hetacillin" should be deleted and "e. By deleting the figures 'X 427.57" should be substituted therefor.

3. In the middle column, page 59858, the heading "§ 40.53a [Revoked]" should read "§ 440.53a [Revoked]".

4. In the fourth line of amendatory paragraph b. under "§ 440.119a [Amended]", third column, page 59861, "discloxacillin" should read "dicloxacillin".

5. In the twelfth line of § 440.281b(a)(1), middle column, page 59872, "6.0" should read "90 per cent".

6. At the end of § 440.1081a(b)(3), third column, page 59873, "millimeter" should read "milliliter".

[4310-02]

Title 25—Indians

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

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

PART 259—PREFERENCE IN EMPLOYMENT

Establishment of New Part

DECEMBER 28, 1977.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau is filing its final rule on Preference in Employment in order to establish a definition of the term "Indian" for preference in employment in the Bureau of Indian Affairs by adding a new Part 259 to Subchapter W, Miscellaneous Activities, of Chapter I, Title 25, Code of Federal Regulations. The new Part 259 was inadvertently published in the proposed rulemaking notice as Part 258. It is being established as Part 259.

EFFECTIVE DATE: February 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis Bayhylle, Division of Personnel Management, telephone 202-343-5547.

SUPPLEMENTARY INFORMATION: The principal author of the regulations in Part 259 is David E. Jones, Office of the Solicitor, telephone 202-343-9331. On May 31, 1977, the Bureau of Indian Affairs published a proposed rule (42 FR 27609 and 27610) adding a new part to its regulations to establish a definition of the term "Indian" for eligibility for a preference in employment in the Bureau of Indian Affairs. A 45 day period was allowed for comments.

Eight interested individuals and four tribal chairpersons responded to the proposed rulemaking. The staff from one Bureau Agency Office, one Bureau Area Office, and one each from the Central Office of the Bureau and the Indian Health Service, Department of Health, Education, and Welfare, also commented. In addition, a group of Bureau Central Office employees submitted comments and requested a hearing of record regarding their proposed amendments and interrelated matters. The hearing request is denied, since there has not been sufficient interest indicated to warrant a public hearing.

The explanatory statements in the notice of May 31, 1977, concerning § 259.1 (b) and (c) of the proposed rulemaking caused concern from three commentators.

The explanation in the notice concerning the descendancy criterion, § 259.1(b), was ambiguous and was not in accordance with the Associate Solicitor for Indian Affairs' opinion of March 24, 1976. It must be clarified that in order for a person to meet the criterion of § 259.1(b) the person must meet all three of the following criteria: (1) Be descended from a member of a tribe now under Federal jurisdiction; (2) have been born on or before June 1, 1934; and (3) have been residing within any Indian reservation on June 1, 1934.

The explanation given in the proposed rulemaking notice concerning

§ 259.1(c), according to one commentator, gave the impression that persons whose Indian ancestry was not of a Federally recognized tribe(s) could not include that ancestry in computing their quantum. The correct implication is that the criterion applies to persons whose ancestry is not of a Federally recognized tribe(s) as well as those whose ancestry is of a Federally recognized tribe(s).

Careful consideration was given to other comments received; however, it was determined that these comments were not significant or substantial enough to warrant changing, deleting, removing, or adding to the proposed rulemaking as published on May 31, 1977. Some of the recommendations pertained to the administrative application of the rules. Such suggestions will be incorporated in the revised issuance of 44 BIAM 302 which will outline the administrative procedures for implementation of the regulations.

Persons who are employed by the Bureau of Indian Affairs on the date these regulations become effective and who received preference in any previous appointment will continue to be preference eligibiles so long as they are continuously employed.

The authority for the Assistant Secretary for Indian Affairs to issue these regulations is contained in Section 9 of the Act of June 30, 1834 (4 Stat. 737, 25 U.S.C. 43), Section 6 of the Act of May 17, 1882 (22 Stat. 88, 25 U.S.C. 46), Section 10 of the Act of August 15, 1894 (28 Stat. 313, 25 U.S.C. 44), Section 5 of the Act of February 8, 1887 (24 Stat. 389, 25 U.S.C. 348), and Sections 12 and 19 of the Act of June 18, 1934 (48 Stat. 986, 25 U.S.C. 472 and 479), and 230 DM 1 and 2.

25 CFR is amended to add a new Part 259 as follows:

Sec.
259.1 Definitions.
259.2 Appointment actions.
259.3 Application procedure for preference eligibility.

AUTHORITY: 4 Stat. 737, 25 U.S.C. 43; 22 Stat. 88, 25 U.S.C. 46; 28 Stat. 313, 25 U.S.C. 44; 24 Stat. 389, 25 U.S.C. 348; and 48 Stat. 986, 25 U.S.C. 472 and 479.

§ 259.1 Definitions.

For purposes of making appointments to vacancies in all positions in the Bureau of Indian Affairs a preference will be extended to persons of Indian descent who are:

(a) Members of any recognized Indian tribe now under Federal Jurisdiction;

(b) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;

(c) All others of one-half or more Indian blood of tribes indigenous to the United States;

(d) Eskimos and other aboriginal people of Alaska; and

(e) Until January 17, 1981, a descendant of at least one-quarter degree Indian ancestry of a currently Federally-recognized tribe whose rolls have been closed by an act of Congress.

§ 259.2 Appointment actions.

(a) Preference will be afforded a person meeting any one of the standards of § 259.1 whether the appointment involves initial hiring, reinstatement, transfer, reassignment or promotion.

(b) Preference eligibles may be given a Schedule A excepted appointment under 5 CFR 213.3112(a)(7). However, if the individuals are within reach on a Civil Service Register, they may be given a competitive appointment.

§ 259.3 Application procedure for preference eligibility.

(a) Proof of eligibility must be submitted with the person's application for a position.

(b) In order for a person to be considered a preference eligible according to the standards of § 259.1, they must submit proof of membership, descendancy or degree of Indian ancestry as indicated on rolls or records acceptable to the Secretary.

NOTE.—The Department of the Interior 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 No. A-107.

FORREST J. GERARD,
Assistant Secretary for Indian Affairs.

[FR Doc. 78-1194 Filed 1-16-78; 8:45 am]

[1505-01]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 5—LABOR STANDARDS PROVISION APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NON-CONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND THE SAFETY STANDARDS ACT)

Correction

In FR Doc. 77-35295 appearing on page 62132 in the issue for Friday, December 9, 1977, In the "Date" paragraph, middle column, page 62132, the effective date reading "January 9, 1977" should read "January 9, 1978".

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER G—ORGANIZATION AND MISSION—GENERAL

PART 865—PERSONNEL REVIEW BOARDS

Subpart B—Air Force Discharge Review Board

ADDRESS: INQUIRIES FOR INDEXES

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending this part to add an address where inquiries may be made for indexes. This address was inadvertently omitted from the rule. The intended effect of this amendment is to make the public aware of the source for the index of documents available for public inspection and copying in connection with the Air Force Discharge Review Board statements of findings.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Colonel Lee, Principal Assistant for Discharge Review Matters, Office of the Secretary of the Air Force (Personnel Council), Commonwealth Building, 1300 Wilson Boulevard, Room 920, Arlington, Va. 22209, 202-694-5418.

SUPPLEMENTARY INFORMATION: On May 10, 1977, the Department of the Air Force, DOD, published a final rule (42 FR 23601) to revise 32 CFR Part 865, Subpart B, Air Force Discharge Review Board. On July 15, 1977 amendments to that part were published (42 FR 36450). This amendment is to add an address that was inadvertently omitted from the revision.

The legal authority for this part is Sec. 8012, 70A Stat. 488, sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.

Accordingly, 32 CFR Part 865 is amended as follows:

§ 865.109 [Amended]

Section 865.109 is amended by adding the following sentence to paragraph (e)(3):

(e) * * *

(3) * * * Inquiries for indexes should be addressed to: Armed Forces Discharge Review/Corrections Board Reading Room, Pentagon Concourse, Washington, D.C. 20301.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-1189 Filed 1-16-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

SUBCHAPTER D—SAFETY AND SPECIAL RADIO SERVICES

[Docket No. 21349; FCC 77-785]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE AND ALASKA—PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

Maritime Mobile Services; Changes in Frequencies; Second Correction

AGENCY: Federal Communications Commission.

ACTION: SECOND ERRATA.

SUMMARY: This document corrects certain errors contained in the temporary assignment plan of new High Frequency (HF) radio-telephony frequencies for use in the maritime mobile service. These assignments were published as FR Doc. 77-33495, on November 25, 1977 at 42 FR 60145.

EFFECTIVE DATE: January 1, 1978 (for temporary frequency assignment plan).

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

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato,
Safety and Special Radio Services Bureau, 202-632-7197.

RELEASED: January 10, 1978.

Amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 27500 kHz in the maritime mobile service adopted at the ITU World Administrative Radio Conference, Geneva, 1974, Docket No. 21349.

1. In Paragraph 2 of the Appendix to the Order in the above-captioned matter, FCC 77-785, released November 16, 1977 at 42 FR 60145 and ERRATUM, 83828, released December 2, 1977 at 42 FR 62373, several of the 4 and 6 MHz frequencies are in error and should be corrected as shown below.

2. In addition, in Paragraph 3 of the same Order, the frequency 4383.6 kHz shown for all zones in Alaska is incorrect and should be corrected to be 4383.8 kHz.

For the Federal Communications Commission,

WILLIAM J. TRICARICO,
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

In the Appendix to Parts 81 and 83, paragraph 2 is amended as shown below.

TEMPORARY FREQUENCY ASSIGNMENT PLAN

* * * * *

2. Stations operating on inland waterways on a simplex basis.

Coast station location and carrier frequency (kHz)

WFN, Jeffersonville, Ind.-Louisville, Ky., 4115.7, 6518.8, 8725.1, 13,103.9, 17,291.8.
WJG, Memphis, Tenn., 4087.8, 6209.3, 8201.2, 12,333.1, 16,518.9.
WCM, Pittsburgh, Pa., 4063.0, 6515.7, 8213.6, 12,333.1, 16,518.9.
WGK, St. Louis, Mo., 4410.1, 6212.4, 8737.5, 13,103.9, 17,291.8.

* * * * *

[FR Doc. 78-1266 Filed 1-16-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 2 to Revised Service Order No. 1182]

PART 1033—CAR SERVICE

Substitution of Stock Cars for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 2 to Revise Service Order No. 1182).

SUMMARY: Revised Service Order No. 1182 authorized the Burlington Northern, Inc., to substitute specially prepared stock cars for boxcars for shipments of grain originating on its line in order to augment the available supply of cars suitable for grain traffic. Amendment No. 2 extends the order for six months.

DATES: Effective 11:59 p.m., January 15, 1978. Expires 11:59 p.m., July 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The amendment is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 12th day of January 1978.

Upon further consideration of Revised Service Order No. 1182 (42 FR 3844 and 37000), and good cause appearing therefor:

It is ordered, That: *§ 1033.1182 Substitution of stock cars for boxcars,* Revised Service Order No. 1182 is amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) Expiration date: The provisions of this order shall expire at 11:59 p.m., July 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., January 15, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-1301 Filed 1-16-78; 8:45 am]

[7035-01]

[Service Order No. 1275, Amdt. 1]

PART 1033—CAR SERVICE

Erie Western Railway Co. Authorized to Operate Over Tracks Abandoned by Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Service Order No. 1275).

SUMMARY: Service Order No. 1275 authorizes Erie Western Railway Co. (EW) to operate over the former Erie Lackawanna (EL) line between Hammond and Decatur, Indiana, via North Judson, Indiana. Operation by the EW over these tracks of the former EL is necessary to provide rail service to shippers located adjacent to the line.

DATES: Effective 11:59 p.m., January 15, 1978.

Expires 11:59 p.m., July 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The amendment is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 12th day of January, 1978.

Upon further consideration of Service Order No. 1275 (42 FR 48882), and good cause appearing therefor:

It is ordered, That: § 1033.1275 *Service Order No. 1275* (The Erie Western Railway Co. authorized to operate over tracks abandoned by Consolidated Rail Corp.) is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1978.

(49 U.S.C. 1 (10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-1306 Filed 1-16-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-75 (Sub No. 1)]

PART 1047—EXEMPTIONS

Agricultural Cooperative Transportation Exemption (Modification of Regulations)

AGENCY: Interstate Commerce Commission.

ACTION: Final regulations.

SUMMARY: The regulations governing agricultural cooperative transportation exemptions are being modified. These changes are to clarify the exemption and prohibit certain practices prevalent among "sham" operators, while at the same time requiring carriers to keep better records. These modifications will make cooperative records, officers and directors more accessible and accountable to Commission personnel. Also, these modifications will strengthen the Commission's ability to administer and enforce the law by enabling the Commission to determine the legitimacy of claimants to the agricultural cooperative exemption and maintain observance of the tonnage limitations set out in the laws.

EFFECTIVE DATE: March 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7292.

SUPPLEMENTARY INFORMATION: By Notice and Order entered November 18, 1976, the Commission, on its own motion, instituted this rulemaking proceeding and published in the Federal Register proposed modifications to the regulations pertaining to the agricultural cooperative exemption published at 41 FR 52893, December 2, 1976, and corrected at 41 FR 54009, December 10, 1976. This proceeding, the sequel to the Commission's initial report on the subject, "Implementation of Pub. L. 90-433-Agric. Coop. Exemption," 108 M.C.C. 799 (1969), was initiated in response to the increasing number of organizations claiming the exemption and mounting evidence that unlawful operations and solicitations by "sham" agricultural cooperatives were adversely affecting the regulated transportation industry. The purpose was to (1) define more clearly the exemption from economic regulation accorded motor vehicles controlled and operated by agricultural cooperative associations or federations thereof, and (2) formulate new and revised requirements concerning record keeping and notice to the Commission respecting certain transportation provided in such motor vehicles. Interested parties were invited to submit their views in writing to the Commission and the Bureau of Enforcement of this Commission, now the Bureau of Investigations and Enforcement, was authorized and directed to participate.

Definitions

Cooperative association.—The Commission finds that the Congressional intent to tie the exemption of section 203(b)(5) of the Interstate Commerce Act to agricultural cooperatives meeting the definition found in the Agricultural Marketing Act is clear and unambiguous. It concludes that the proposal to further limit the exemption in such a way as to eliminate legitimate transportation, supply, and perhaps even marketing and processing cooperatives would be inconsistent with the legislative history and plain meaning of the statutes. The second proposed limitation concerns control of the cooperative, and it likewise would alter the statutory criteria and might well hamper effective management; so it is also rejected. The Commission opts not to retain the regulation in the form which defines the term by reference to another statute but rather to set forth that entire definition and thereby inform cooperatives and the shipping public exactly what is and what is not a bona fide cooperative so that they will not have to search other federal statutes to find the definition.

Member.—In its analysis of this proposal which rewords the definition but contemplates no substantive change, the Commission uncovered a substantial alteration which consisted of the elimination of mixed farmer and cooperative association membership within a single federated cooperative association. This is contrary to the definition of such federation in the preceding § 1047.20(b) and contrary to the holding in the Commission's own cases. Whether the proposal contained an inadvertent omission or not, the current definition does not warrant amendment.

Member transportation.—The Commission agrees with most participants in the proceeding that the modifications are complicated, confusing, and impractical. The modifications consist of a proposed farm-related test and a proposed connection of member transportation to a percentage ratio of manufactured or processed goods transported to raw agricultural commodities produced. The modifications ignore the fundamental fact that cooperative associations or federations do not engage in farming per se but rather in those activities enumerated in the Agricultural Marketing Act.

Classifying the member activities of many legitimate cooperatives as "nonmember transportation" places severe restrictions on their operations. Also, it places the emphasis of the regulation on transportation for members, rather than for nonmembers. The latter should be the chief concern since that constitutes the major portion of unlawful activity and causes the greatest harm to regulated carriers. The proposed amendments are not accepted.

OTHER SECTIONS

Computation of tonnage allowable in nonfarm-nonmember transportation.—The one addition to this section is a prohibition against one-way trip-leasing. Parties to the rulemaking expressed confusion over the extent of this prohibition. The Commission therefore interprets the modification as being applicable only where the agricultural cooperative acts as lessee; that is, where equipment is trip-leased to the cooperative. The Commission adopts the one-way trip-lease prohibition after rewording it and placing it in the second paragraph of the section so that it clearly complies with the Commission's interpretation.

Nonmember transportation limitation and recordkeeping.—The Commission claims the power to promulgate the new subsection requiring that records of transportation activities be kept by agricultural cooperatives and federations thereof by virtue of the exemption itself and sections 204(a)(6) and 220(g) of the Interstate Commerce Act. Enforcement of the congressionally prescribed limitations on exemption would seem to be dependent on such powers. The legislative history of the amendments to the exemption supports this view, and the proviso to section 220(g) is not relevant since the regulation does not prescribe the "form" but rather the "substance" of the matters to be recorded. The new regulation requires information to be kept which is germane to the enforcement of the statutory provisions. For this reason some items are dropped and others added pursuant to the comments of the participants. The regulation is also amended to require compliance only by cooperatives required to give notice to the Commission rather than by all cooperatives performing nonmember transportation. This is to keep it consistent with other parts of the Interstate Commerce Act. This section will have minimal effect on the legitimate cooperative retaining records in the ordinary course of its business, whereas sham cooperatives which often do not keep records in efforts to deter or impede detection will feel the full impact.

Notice to the Commission.—The regulation requiring annual filings of the Notice and strict updating of the information are indispensable tools for proper enforcement of the exemption. Again, this will have little if any effect on legitimate cooperatives but will facilitate the investigation and prosecution of sham cooperatives. In order to avoid the necessity of multiple filings and the difficulty of assessing operations and choosing management personnel by the proposed January 15 deadline, the annual filing will be required within 30 days after the annual meeting of the cooperative or federation.

The 15-day notification period is modified to 30 days, and failure to comply will not rescind a previous notice as was proposed. A failure may, however, subject the organization, its officers, and directors to the fine and imprisonment penalties of 18 U.S.C. 1001. This should have a deterrent effect and a reminder will be printed on Form BOp 102. Publication in the FEDERAL REGISTER and the availability of a central file will put shippers on notice and invite the submission of information having a bearing upon the propriety of the filing. The Form BOp 102 has also been changed to require some additional information, but these changes stop far short of the numerous suggestions of the participants. These changes primarily expedite initial verification of the legitimacy of the filing cooperative and make the cooperative and its officers more accessible to the Commission's enforcement staff. The new form also has some certification changes and requires notarization.

Accordingly, sections 1047.20, 1047.21, 1047.22, and 1047.23 of Chapter X of Title 49 of the Code of Federal Regulations are modified and supplemented and the Form BOp 102 is changed as set forth below:

§ 1047.20 Definitions.

(Modifications are in italics.)

As used in the regulations in this part, the following terms shall have the meaning shown:

(a) *Cooperative Association.* The term "cooperative association" means an association which conforms to the *following* definition in the Agricultural Marketing Act, approved June 15, 1929, as amended (12 U.S.C. 1141j):

As used in this act, the term "cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services. Provided, however, That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.

Associations which do not conform to such definition are not eligible to operate under the partial exemption of section 203(b)(5) of the Interstate Commerce Act.

(b) *Federation of cooperative associations.* The term "federation of cooperative associations" means a federation composed of either two or more cooperative associations, or one or more cooperative associations and one or more farmers, which federation possesses no greater powers or purposes than a cooperative association as defined in paragraph (a) of this section. Federations of cooperative associations which do not conform to such definition are not eligible to operate under the partial exemption of section 203(b)(5) of the Interstate Commerce Act.

(c) *Member.* The term "member" means any farmer or cooperative association which has consented to be, has been accepted as, and is a member in good standing in accordance with the constitution, bylaws, or rules of the cooperative association or federation of cooperative associations.

(d) *Farmer.* The term "farmer" means any individual, partnership, corporation, or other business entity to the extent engaged in farming operations either as a producer of agricultural commodities or as a farm owner.

(e) *Interstate transportation.* The term "interstate transportation" means transportation by motor vehicle in interstate or foreign commerce as defined in part II of the Interstate Commerce Act, as amended.

(f) *Member transportation.* The term "member transportation" means transportation performed by a cooperative association or federation of cooperative associations for itself or for its members, but does not include transportation performed in furtherance of the nonfarm business of such members.

(g) *Nonmember transportation.* The term "nonmember transportation" means transportation performed by a cooperative association or federation of cooperative associations other than member transportation as defined in paragraph (f) of this section.

(h) *Fiscal year.* The term "fiscal year" means the annual accounting period adopted by the cooperative association or federation of cooperative associations for Federal income tax reporting purposes.

§ 1047.21 Computation of tonnage allowable in nonfarm-nonmember transportation.

Interstate transportation performed by a cooperative association or federation of cooperative associations for nonmembers who are neither farmers, cooperative associations, nor federations thereof for compensation, except transportation otherwise exempt under part II of the Act, shall be limited to that which is incidental to its primary transportation operation and necessary for its effective performance and shall in no event exceed 15 percent of its total interstate transportation services in any fiscal year, measured in terms of tonnage. A cooperative association or federation of cooperative associations may transport its own property, its members' property, of other farmers and the property of other cooperatives or federations in accordance with existing law, except insofar as the provisions of § 1047.22 may be applicable with respect to the limit on member/nonmember transportation.

(a) The phrase "incidental to its primary transportation operation and necessary for its effective performance" means that the interstate transportation of the cooperative association or federation of cooperation associations for nonmembers as described above is performed with the same trucks or tractors employed in a prior or subsequent trip in the primary transportation operation of the cooperative association or federation, that it is not economically feasible to operate the trucks or tractors empty on return trips (outbound trips in cases where the primary transportation operation is inbound to the association or federation), and that the additional income obtained from such transportation is necessary to make the primary transportation operation financially practicable. *Transportation performed by a cooperative or federation through the use of one-way trip-leased vehicles is not incidental and necessary;*

(b) The base tonnage to which said 15 percent limitation is applied is all tonnage of all kinds transported by the cooperative association or federation of cooperative associations in interstate or foreign commerce, whether for itself, its members or nonmembers, for or on behalf of the United States or any agency or instrumentality thereof, and that performed within the exemption provided by section 203(b)(6) of the Act.

§ 1047.22 Nonmember transportation limitation and record keeping.

(a) *Overall limitation of nonmember transportation.* No cooperative association or federation of cooperative associations which is required to give notice to the Commission under § 1047.23 may engage in nonmember interstate transportation for compensation in any fiscal year which, measured in terms of tonnage, exceeds its total interstate member transportation in such fiscal year.

(b) *Records of interstate transportation when nonmember transportation is performed. Any cooperative association or federation of cooperative associations as defined in this part performing interstate transportation for nonmembers and required to give notice to this Commission under § 1047.23 shall prepare and retain for a period of at least two years written records of all interstate transportation performed for members and nonmembers. Such records shall contain (1) the date of the shipment, (2) the names and addresses of the consignor and consignee, (3) the origin and destination of the shipment, (4) a description of the articles in the shipment, (5) the weight or volume of the shipment, (6) a description of the equipment used either by unit number or license number and, in the event this equipment is nonowned, the name and address of its owners and drivers, (7) the total charges collected, (8) a copy of all leases executed by the cooperative association or federation of cooperative associations to obtain equipment to perform transportation under section 203(b)(5), (9) whether the transportation performed is (i) member transportation as defined in § 1047.20(f), (ii) nonmember transportation for nonmembers who are farmers, cooperative associations, or federations thereof, (iii) other nonmember transportation, and if of class (iii), how such transportation was incidental and necessary as defined in § 1047.21(a).*

§ 1047.23 Notice to the Commission.

A cooperative association or federation of cooperative associations which performs or proposes to perform interstate transportation for nonmembers, who are neither farmers, cooperative associations, nor federations of cooperative associations, under section 203(b)(5) of the Interstate Commerce Act, as amended July 26, 1968, which transportation is not otherwise exempt under Part II of the act, shall notify the Commission of its intent to perform such transportation. Such notification shall be given prior to the commencement of such operations and shall be in the form, contain the information, and be served in the manner called for in Form BOp 102, Notice to Commission of Intent to Perform Interstate Transportation for Certain Nonmembers Under Section 203(b)(5) of the Interstate Commerce Act (§ 1003.1 of this chapter). *Such notice must be filed with the Commission annually, within 30 days of its annual meeting. Following the receipt of a properly completed Form BOp 102, the information contained therein will be published in the* FEDERAL REGISTER *and put in a central file at the Commission, as public notice of the intent of the agricultural cooperative association or federation of cooperative associations to conduct interstate for-hire transportation for nonmembers under section 203(b)(5) of Part II of the Interstate Commerce Act. The information requested is of a continuing nature and any changes in the information concerning officers, directors, and location of transportation records in the notice on file shall be brought to the Commission's attention by the filing of a supplemental form BOp 102 within 30 days of such change. Additionally, forms which are incomplete or are not properly notarized will be rejected by the Commission.*

H. G. HOMME, Jr.,
Acting Secretary.

INTERSTATE COMMERCE COMMISSION

NOTICE TO COMMISSION OF INTENT TO PERFORM INTERSTATE TRANSPORTATION FOR CERTAIN NONMEMBERS UNDER SECTION 203(b)(5) OF THE INTERSTATE COMMERCE ACT

COMPLETE LEGAL NAME OF COOPERATIVE ASSOCIATION OR FEDERATION OF COOPERATIVE ASSOCIATIONS

PRINCIPAL MAILING ADDRESS (Street No., City, State and Zip Code)

BUSINESS ADDRESS (If different from principal mailing address)

STATE OF INCORPORATION	DATE	NO. OF MEMBERS	ANNUAL MEETING	FISCAL YEAR

TYPE OF COOPERATIVE OR FEDERATION AND PRIMARY PURPOSE

PRINCIPAL OFFICERS (Name, Title & Address)	PRINCIPAL OCCUPATION & BUSINESS ADDRESS	AFFILIATION WITH OTHER COOPERATIVES OR FEDERATION REQUIRED TO FILE NOTICE (Past 5 years)
1.		
2.		
3.		
DIRECTORS		
1.		
2.		
3.		
4.		

WHERE ARE RECORDS OF YOUR MOTOR TRANSPORTATION MAINTAINED? (Street No., City, State and Zip Code)

DESCRIBE TRANSPORTATION (Commodities and Territory) CONTEMPLATED TO BE PERFORMED BY YOU UNDER THE 15 PERCENT PROVISION OF SECTION 203(b)(5). (Attach separate sheet if necessary)

PERSON TO WHOM INQUIRIES AND CORRESPONDENCE SHOULD BE ADDRESSED

NAME	MAILING ADDRESS (Street No., City, State, and Zip Code)	PHONE NO. (Include Area Code)

(Receipt Stamp)

NOTE: The filing of this Notice is a pro-forma requirement and therefore does not constitute approval of the Interstate Commerce Commission or bear on the legitimacy of the named organization or its operations.

THE INFORMATION REQUESTED IS OF A CONTINUING NATURE AND ANY CHANGES IN THE INFORMATION CONCERNING OFFICERS, DIRECTORS, AND LOCATION OF TRANSPORTATION RECORDS IN THE NOTICE ON FILE SHALL BE BROUGHT TO THE COMMISSION'S ATTENTION BY THE FILING OF A SUPPLEMENTAL FORM BOp 102 WITHIN 30 DAYS OF SUCH CHANGE. THE FAILURE TO INFORM THE COMMISSION OF SUCH CHANGES MAY SUBJECT THE ASSOCIATION OR FEDERATION AND ITS OFFICERS AND DIRECTORS TO THE PENALTIES PRESCRIBED IN 18 U.S.C. § 1001.

BOp-102
6/77

(To be completed by each principal officer)

I certify that the above statements are true and correct; that I am a principal officer of the organization in whose behalf this notice is filed, duly authorized to sign said notice; that I have personally acquainted myself with the requirements of section 203(b)(5) of the Interstate Commerce Act and the Commission's regulations (49 CFR 1047.20 to 1047.23, inclusive) promulgated thereunder; that the association or federation in whose behalf this notice is filed is a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended (12 U.S.C.§ 1141j) which intends to engage in interstate transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof, in addition to transportation otherwise exempt under part II of the Interstate Commerce Act; that the original of this Notice is being filed with the Secretary Interstate Commerce Commission, Washington, D. C., 20423; that a copy of this notice shall be carried upon each truck or tractor engaged in interstate transportation pursuant to section 203(b)(5) of the Interstate Commerce Act; and that pursuant to Section 220(g) of the Act, the Commission or its duly authorized special agents, accountants, or examiners shall, during normal business hours, have access to and authority, under its order, to inspect, examine, and copy any and all accounts, books, records memorandums, correspondence and other documents pertaining to motor vehicle transportation of this cooperative association or federation of cooperative associations.

I further certify that in signing the foregoing certificate I am aware that anyone who, in any matter within the jurisdiction of any agency of the United States, intentionally makes or uses any false, fictitious, or fraudulent writing or document, may be subject to prosecution and fined up to $10,000 and imprisoned for up to 5 years. (18 U.S.C.§1001).

SIGNATURE	TYPED NAME AND TITLE
ADDRESS	DATE

COUNTY OF _____ }
STATE OF _____ } ss:

Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19_____.

SIGNATURE	TYPED NAME AND TITLE
ADDRESS	DATE

COUNTY OF _____ }
STATE OF _____ } ss:

Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19_____.

SIGNATURE	TYPED NAME AND TITLE
ADDRESS	DATE

COUNTY OF _____ }
STATE OF _____ } ss:

Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19_____.

[FR Doc. 78-1136 Filed 1-16-78; 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 907]

NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses and a rate of assessment for the 1977-78 fiscal year, to be collected from handlers to support activities of the Navel Orange Administrative Committee which locally administers the Federal marketing order covering Arizona and California navel oranges.

DATES: Comments must be received on or before January 31, 1978. Proposed effective dates: November 1, 1977, through October 31, 1978.

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, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the committee, established under Marketing Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer its terms and provisions. The proposals are:

(a) Expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee during the period November 1, 1977, through October 31, 1978, will amount to $474.720.

(b) The rate of assessment for said period payable by each handler in accordance with § 907.41 is fixed at $0.013 per carton of navel oranges.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal year ended October 31, 1977, shall be carried over as a reserve in accordance with § 907.42.

Dated: January 11, 1978.

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

[FR Doc. 78-1237 Filed 1-16-78; 8:45 am]

[3410-02]

[7 CFR Parts 911 and 915]

[Dockets Nos. AO-267-A9 and AO-254-A8]

HANDLING OF LIMES GROWN IN FLORIDA, HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Hearing on Proposed Amendments of Marketing Agreements, as Amended, and Orders, as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public Hearing on Proposed Rulemaking.

SUMMARY: The hearing is being held to consider propsed changes in both marketing orders. The principal issues to be considered are: (1) removal of assessment limitations, (2) exclusion of exports of limes from volume control, and (3) provision of separate regulations for exports of limes and avocados.

DATES: The hearing will be held February 7, 1978, at the location listed under addresses below.

ADDRESSES: The hearing will be held in the Homestead Agricultural Center, 18710 S.W. 288th Street, Homestead, Fla.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held beginning at 9:30 a.m., local time, with respect to proposed amendments of the marketing agreement, as amended, and Order No. 911, as amended, regulating the handling of limes grown in Florida and of the marketing agreement, as ameded, and Order No. 915, as amended, regulating the handling of avocados grown in South Florida.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to proposed amendments, hereinafter set forth, or any appropriate modifications thereof, of the marketing agreements, as amended, and the orders, as amended.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY THE FLORIDA LIME ADMINISTRATIVE COMMITTEE AND THE AVOCADO ADMINISTRATIVE COMMITTEE

The proposed amendment to the marketing agreeement and order regulating the handling of limes grown in Florida is as follows:

M.O. 911

PROPOSAL NO. 1

Add a new § 911.12 Export as follows:

§ 911.12 Export.

"Export" means to ship limes to any destination which is not within the 48 contiguous States or the District of Columbia of the United States or Canada.

PROPOSAL NO. 2

Revise § 911.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 911.20 reads as follows:

§ 911.20 Establishment and membership.

* * * * *

(b) The committee may be increased by one non-industry member and alternate. Persons for the non-industry positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the non-industry person.

PROPOSAL NO. 3

Revise paragraph (a) of § 911.30 and add a new paragraph (d) to such section. As ameded, § 911.30 reads as follows:

§ 911.30 Procedure.

(a) Except as provided in paragraphs (c) and (d), of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes, including one by a handler, or an alternate acting as such: *Provided,* That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes, including one by a handler or an alternate acting as such.

* * * * *

(d) For any recommendation of the committee for an assessment rate exceeding $0.20 per bushel to be applied pursuant to § 911.41, the quorum, requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

PROPOSAL NO. 4

Revise § 911.31 to read as follows:

§ 911.31 Expenses.

The members of the committee and their respective alternates when acting as members or when performing other duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

PROPOSAL NO. 5

Revise paragraph (b) of § 911.41 to read as follows:

§ 911.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

PROPOSAL NO. 6

Revise subparagraph (a)(2) of § 911.42. As amended § 911.42 reads as follows:

§ 911.42 Accounting.

(a) * * *

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operation during such a year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses; but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

PROPOSAL NO. 7

Revise § 911.48 by adding a new subparagraph (a)(7). As amended, § 911.48 reads as follows:

§ 911.48 Issuance of regulations.

(a) * * *

(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of limes which are different from those applicable to the handling of the same variety to other destinations.

* * * * *

PROPOSAL NO. 8

Revise paragraph (a) of § 911.53, so that after revision such paragraph reads as follows:

§ 911.53 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of limes which it deems advisable to be handled to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada during the next succeeding week: *Provided,* That such volume regulations shall not be recommended for any week except during the 18-week regulatory period beginning with the week preceding the first full week in May: *Provided, further,* That no such regulation shall be recommended after such regulations have been in effect for an aggregate of eight (8) weeks during the aforesaid period.

* * * * *

PROPOSAL NO. 9

Revise § 911.54 to read as follows:

§ 911.54 Issuance of volume regulations.

Whenever the Secretary finds, from the recommendation and information submitted by the committee, or from other available information, that to limit the quantity of limes which may be handled to destinations within the 48 contiguous States of the United States, the District of Columbia and Canada during a specified week of a regulatory period will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided,* That such regulations during a regulatory period shall not in the aggregate limit the volume of lime shipments for more than eight (8) weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of limes is in excess of the parity price. The Secretary may, upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation pursuant to this section at any time.

PROPOSAL NO. 10

Revise paragraph (d) of § 911.55 to read as follows:

§ 911.55 Prorate bases.

* * * * *

(d) Each week during the regulatory period when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of this section. The prorate base for each such handler shall be computed by adding together the handler's shipments of limes in the current season and his shipments in the immediately preceding seasons, if any, within the representative period in which he shipped limes and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and the eighteen weeks for each of such immediately preceding seasons within the representative

period in which the handler shipped limes. For purposes of this section "shipments" shall include only those limes which were shipped to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada; "representative period" means the two preceding seasons together with the current season; the term "season" means the eighteen-week period beginning with the week preceding the first full week in May of any fiscal year; and the term "current season" means the period beginning with the week preceding the first full week in May of the current fiscal year through the fourth full week preceding the week of regulation: *Provided,* That, when official shipping records are available to the committee the said "current season" shall extend through the third full week preceding the week of regulation.

The proposed amendment to the marketing agreement and order regulating the handling of avocados grown in South Florida is as follows:

M.O. 915

PROPOSAL NO. 1

Add a new § 915.12 Export as follows:

§ 915.12 Export.

"Export" means to ship avocados to any destination which is not within the 48 contiguous States or the District of Columbia of the United States or Canada.

PROPOSAL NO. 2

Revise § 915.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 915.20 reads as follows:

§ 915.20 Establishment and membership.

* * * * *

(b) The committee may be increased by one non-industry member and an alternate. Persons for the nonindustry positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office and the procedure for nominating the nonindustry persons.

PROPOSAL NO. 3

Revise paragraph (a) of § 915.30 and add a new paragraph (c) to such section. As amended, § 915.30 reads as follows:

§ 915.30 Procedure.

(a) Except as provided in paragraph (c) of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes including one by a handler, or an alternate acting as such: *Provided,* That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes including one by a handler, or an alternate acting as such.

* * * * *

(c) For any recommendation of the committee for an assessment rate exceeding $0.20 per bushel to be applied pursuant to § 915.41, the quorum requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

PROPOSAL NO. 4

Revise § 915.31 to read as follows:

§ 915.31 Expenses.

The members of the committee and their respective alternates when acting as members or when performing other duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

PROPOSAL NO. 5

Revise paragraph (b) of § 915.41 to read as follows:

§ 915.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment per 55 pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

PROPOSAL NO. 6

Revise subparagraph (a)(2) of § 915.42. As amended, § 915.42 reads to follows:

§ 915.42 Accounting.

(a) * * *

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operations during such year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operationsl expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses; but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

* * * * *

PROPOSAL NO. 7

Revise § 915.51 by adding a new subparagraph (a)(7). As amended, § 915.51 reads as follows:

§ 915 Issuance of regulations.

(a) * * *

(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of limes which are different from those applicable to the handling of the same variety to other destinations.

* * * * *

Proposed by the Fruit and Vegetable Division, Agricultural Marketing Service:

PROPOSAL NO. 11

Make such changes as may be necessary to make the marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Lakeland Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Florida Citrus Mutual Building, P.O. Box 9, Lakeland, Fla. 33802 or from the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on January 12, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-1235 Filed 1-16-78; 8:45 am]

[3410-02]

Agricultural Marketing Service

[7 CFR Part 1139]

MILK IN LAKE MEAD MARKETING AREA

Proposed Suspension of a Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend a provision of the Lake Mead milk marketing order. The provision relates to the number of days that a dairy farmer must deliver milk to a pool supply plant during January and February to maintain producer status with such plant during the following March-July period. Suspension of the provision was requested by a cooperative association to help it continue the association of its members' milk with the order. The proposed suspension would apply during the months of March through July 1978.

DATE: Comments are due not later than January 23, 1978.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Room 1077-S, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the Lake Mead marketing area is being considered for the months of March through July 1978.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, United States Department of Agriculture, Room 1077-S, Washington, D.C. 20250, not later than January 23, 1978. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be suspended, as set forth in the "producer" definition of the order, is § 1139.12(b)(5).

STATEMENT OF CONSIDERATION

The proposed action would make inoperative for 1978 the requirement that at least 52 days' milk production of a dairy farmer be received at a pool supply plant during January and February if the farmer wishes to deliver milk to the same pool plant in the following March-July period and have it pooled under the order.

The suspension was requested by the Lake Mead Cooperative Association, which operates the only supply plant in the market. The cooperative indicated that without the suspension, a number of its producer-members who are now supplying pool distributing plants on a regular basis cannot be considered as producers during the forthcoming months of March through July if the milk of such members is delivered to the co- operative's supply plant.

The 52-day delivery requirement was intended to prevent the attachment of surplus milk supplies from other markets to the Lake Mead market through a pool supply plant that has automatic pool plant status. The cooperative's supply plant, which customarily qualifies for such status, failed, however, to do so for 1978. It thus must make monthly shipments to the market during March through July if it is to qualify for pooling during this period. Because of this, the 52-day requirement has no useful purpose this year. However, because this provision remains in the order, it may impede the orderly handling of milk at this supply plant under the changed operating situation.

Signed at Washington, D.C., on January 11, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-1240 Filed 1-16-78; 8:45 am]

[3410-05]

Agricultural Stabilization and Conservation Service

[7 CFR PARTS 1421, 1446]

1978 PEANUT PROGRAM

Proposed Determinations Regarding a Loan and Purchase Program for the 1978 Crop of Peanuts

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make determinations and issue regulations concerning a loan and purchase program for the 1978 crop of peanuts. The loan and purchase program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"), including amendments contained in the Food and Agriculture Act of 1977, and the Commodity Credit Corporation Charter Act, as amended. The effect of these determinations is to establish for the 1978 program:

(a) The national level of support for quota peanuts.

(b) The national level of support for additional peanuts.

(c) The use of services of approved area marketing associations in making warehouse storage loans and performing other activities relating to the program, as authorized by the 1977 amendments.

(d) The definition of "eligible for domestic edible use" as it pertains to peanuts marketed or considered marketed from a farm.

(e) Sales policy for peanuts received under loan or acquired by the Corporation under the 1978 program.

Other program provisions for the 1978 program, such as the loan and purchase rates by types of peanuts, quality premiums and discounts, and program regulations, will be proposed and determined at a later date. The program is intended to stabilize market prices and to protect producers, handlers, processors and consumers. This notice invites comments on these proposed determinations.

DATES: Written comments must be received on or before January 31, 1978 (14 days after publication), in order to be sure of consideration.

ADDRESSES: Send comments to Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Thomas A. VonGarlem, ASCS, 202-447-7954.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977, effective October 1, 1977 (Pub. L. 95-113), contains major amendments to the Act as it pertains to loan and purchase programs for the 1978 through 1981 crop of peanuts. It amends Title I of the Act to include definitions of "quota" and "additional" peanuts, "crushing" and "domestic edible use", which have a significant bearing on farm marketings, loan rates, and policies for disposing of loan or purchase inventories. It also adds a new section 108 to the Act which: (a) Requires separate price support levels for quota

and additional peanuts and new criteria which must be observed in establishing those loan levels, and (b) specific requirements pertaining to the use of area marketing associations in implementing the price support programs. Following are the determinations to be made pursuant to this proposal:

1. *The national level of support for quota peanuts.* New subsection 108(a) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts at such levels as he finds appropriate, but not less than $420 per ton. In determining price support levels, subsection 108(a) of the Act directs the Secretary to take into consideration: (a) Any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period January 1 through December 1, 1977, inclusive, and (b) the eight factors specified in section 401(b) of the Act, namely, the supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

The new subsection supersedes the peanut provisions of section 101(b) of the Act, which required a loan level of between 75 and 90 percent of the parity price for peanuts, with the minimum permissible level of support within such range to be determined by the supply percentge. The 1977 national average loan determined under section 101(b) was $430.50 per ton.

The loan level determined under this new subsection 108(a) will be applicable only to "quota" peanuts, which are defined in the 1977 amendments to the Act as any peanuts which are eligible for domestic edible use as determined by the Secretary, which are marketed or considered marketed from a farm, and which do not exceed the farm poundage quota of such farm for such year. The national poundage quota for the 1978 crop of peanuts, which will be eligible for support at the loan rate determined under this new subsection, has been determined and proclaimed to be 1,680,000 tons (7 CFR 729.100 (1977 ed.)).

This new subsection further provides that the levels of support determined thereunder shall not be reduced by any deductions for inspection, handling, or storage. In 1977, a deduction of $20 per ton was made from loan advances.

2. *The national level of support for additional peanuts.* New subsection 108(b) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on "additional peanuts," which are defined in the 1977 amendments to the Act as any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for the marketing year but not in excess of the actual production from the farm acreage allotment. This subsection requires that the loan rate for 1978 crop additional peanuts shall be announced not later than February 15, 1978, and that in determining this rate the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

There was no comparable provision for additional peanuts under the 1977 program. All of the peanuts eligible for loan under that program were produced within the 1977 crop marketing quota and were eligible for support at the national average loan rate of $430.50.

3. *Area marketing associations.* New subsection 108(c) of the Act authorizes the Secretary to make loans available in each of the three producing areas (described in 7 CFR § 1446.4 (1977 ed.)) to a designated area marketing association of peanut producers which is selected and approved by the Secretary and which is operated primarily for the purpose of conducting such loan activities. Such associations may be used in administrative and supervisory activities relating to price support and marketing activities under section 108 and under the Agricultural Adjustment Act of 1938, as amended. Such loans shall include, in addition to the price support value of the peanuts, such costs as the associations may reasonably incur in carrying out such responsibilities.

The Department proposes to use area marketing associations as authorized by this subsection in implementing the 1978 program. Since 1937, such associations have participated in administering and supervising the peanut program in a manner generally similar to that described herein.

4. *Peanuts eligible for domestic edible use.* The 1977 amendment to Title I of the Act defines "domestic edible use" as use for milling to produce domestic food peanuts and seed and use on a farm. Only peanuts which are eligible for domestic edible use as determined by the Secretary may be marketed from a farm as quota peanuts in the 1978 marketing year.

Regulations currently in effect, contained in 7 CFR 1446.3 (1974 ed.) and the 1977 quality regulations issued pursuant to the Peanut Marketing Agreement classify farmers stock peanuts as follows:

Segregation 1 peanuts means farmers stock peanuts which: (i) Have at least 99 percent peanuts of one type, (ii) have not more than 2 percent damaged kernels nor more than 1 percent concealed damage caused by rancidity, mold, or decay, and (iii) are free from *A. flavus* mold.

Segregation 2 peanuts means farmers stock peanuts which: (i) Have less than 99 percent peanuts of one type, or (ii) have more than 2 percent damaged kernels or more than 1 percent concealed damage caused by rancidity, mold, or decay, and (iii) are free visible *A. flavus* mold.

Segregation 3 peanuts means farmers stock peanuts which have visible *A. flavus* mold.

Under these regulations, only segregation 1 peanuts may be milled and sold for the manufacture of peanut butter, roasted peanuts, salted peanuts, and other edible products using the peanuts as peanuts. In common usage, the term "eligible for domestic edible use" has been applied only to these segregation 1 peanuts, although other classes of peanuts may be crushed to obtain edible oil.

In defining the term "eligible for domestic edible use" as it applies to the definition of quota peanuts, the Department is considering whether to restrict eligibility to segregation 1 peanuts or to broaden the term, for program purposes only, to include segregation 3 peanuts. The broader definition would assist the Department in its attempts to protect consumers by isolating these peanuts from edible markets and controlling the disposition of the contaminated meal outturn of the peanuts. In addition, it would alleviate losses of farm income due to drought or other weather conditions conducive to the growth of the contaminant, *A. flavus* mold.

The loan rate for segregation 3 peanuts marketed as quota peanuts would be less than the rate for segregation 1 quota peanuts, but possibly higher than the loan rate for additional peanuts grown for export and crushing markets.

5. *Sales policy.* The Department invites comments on a sales policy for quota and additional peanuts pledged as loan collateral or acquired by Commodity Credit Corporation under the 1978 program. Section 407 of the Act provides that the Corporation may not sell peanuts at less than 105 percent of the support price plus reasonable carrying charges, except sales for new or byproduct uses, extraction of oil, export, and prevention of deterioration or spoilage. Section 359(j) of the Agricultural Adjustment Act of 1938, contained in the Food and Agriculture

Act of 1977, provides that additional peanuts received under loan may be sold for domestic edible use at not less than all cost incurred with respect to the peanuts sold, plus: (1) 100 percent of the quota loan value if sold and paid for during the harvest season and upon delivery by the producer, or (2) 105 percent of the quota loan value if sold after delivery but before December 31 of the marketing year, or (3) 107 percent of the quota loan value if sold later than December 31 of the marketing year.

Subject to these legal requirements, the Department is contemplating making the following determinations:

(a) Sales of quota peanuts and additional peanuts for domestic edible use will be made at not less than all cost incurred with respect to the peanuts sold plus: (1) 105 percent of the quota loan value if sold before December 31, 1978, or (20 107 percent of the quota loan value if sold later than December 31, 1978.

(b) Sales for export will be made at not less than 100 percent of the loan value for quota or additional peanuts, as applicable, plus costs.

(c) Any quota or additional peanuts not sold for domestic edible use or export will be offered for sale at competitive prices for crushing with the use of oil being restricted to domestic markets.

PROPOSED RULE

The subjects and issues involved in the proposed rule making are:

(a) The national level of support for quota peanuts.

(b) The national level of support for additional peanuts.

(c) The use of services of approved area marketing associations in implementing the program.

(d) The definition of "eligible for domestic edible use."

(e) Sales policy for peanuts received under loan or acquired by the corporation under the 1978 program.

Prior to making any determination, the Department will give consideration to comments, views, and recommendations submitted in writing to the Director, Price Support and Loan Division. 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 3741-S.

Signed in Washington, D.C., on January 12, 1978.

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

[FR Doc. 78-1385 Filed 1-16-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772 3061]

FERRARA IMPORTS, LTD., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent order, among other things, would require a New York City importer and manufacturer of men's clothing to cease misrepresenting or failing to affix to their products required fiber disclosure labels. The firm is additionally required to furnish affected customers with a copy of the order.

DATE: Comments must be received on or before March 16, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1200.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

FERRARA IMPORTS, LTD., AND LOUIS FERRARA

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Ferrara Imports, Ltd., and Louis Ferrara, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Ferrara Imports, Ltd., a corporation, by its duly authorized officer, and Louis Ferrara, individually and as an officer of said corporation, and counsel for the Federal Trade Commission that:

1. Proposed respondent Ferrara Imports, Ltd., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 655 Madison Avenue, New York, N.Y. 10021.

Proposed respondent Louis Ferrara is an officer of said corporation. He formulates, directs, and controls the policies, acts, and practices of said corporation and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as al-

leged in the draft of complaint here attached.

6. This agreement contemplates that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may without further notice to proposed respondents: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondents Ferrara Imports, Ltd., a corporation, its successors and assigns, and its officers, and Louis Ferrara, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the introduction or importing for introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products.

2. Failing to securely affix to or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents mail a copy of this order to each of their customers that purchased the wool products which gave rise to this complaint.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of each change in business or employment status, which includes discontinuance of his present business or employment and each affiliation with a new business or employment, for ten (10) years following the effective date of this order. Such notice shall include respondent's current business address and a description of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

FERRARA IMPORTS, LTD.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Ferrara Imports, Ltd., and Louis Ferrara, an officer of the company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Ferrara Imports, Ltd., is a New York corporation and is an importer, manufacturer, and distributor of clothing. Louis Ferrara is the president of the corporation, and controls and is responsible for its acts and practices.

The complaint alleges that the firm imported men's suits, manufactured other men's suits and sold them without affixing tags or labels disclosing wool and other fiber content as required by the Wool Products Labeling Act of 1939. It further alleges that the firm falsely labeled samples used in selling these suits by substantially overstating the wool content and by misrepresenting the percentages of other constituent fibers.

The consent order in this matter prohibits Ferrara Imports, Ltd., and Louis Ferrara from failing to affix to their wool blend clothing labels disclosing fiber content and from misrepresenting the wool and other fiber content. It further requires that they mail a copy of the order to those who purchased the clothing that was the subject of this action.

The order is generally designed to prevent deception as to the wool content of clothing and to protect the corporation's competitors from unfair competition.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-1200 Filed 1-16-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[19 CFR Ch. II]

INTERPRETIVE RULES AND POLICY STATEMENTS

Advance Notice of Proposed Rulemaking with regard to the possible adoption of interpretive rules and policy statements concerning the administration of the Antidumping Act, 1921 (19 U.S.C 160, et seq.), and section 303(b) of the Tariff Act of 1930 (the countervailing duty statute) (19 U.S.C. 1303(b)).

AGENCY: U.S. International Trade Commission.

ACTION: Notice of agency consideration of possible issuance of a notice of proposed rulemaking. The Commission solicits comments and suggestions from any interested persons with regard to the content of such proposed rulemaking.

SUMMARY: This is an advance notice of the possible issuance of proposed rulemaking, namely, interpretive rules and policy statements to serve as guidelines in construing the Antidumping Act, 1921, and section 303(b) of the Tariff Act of 1930, and to advise the public of the Commission's policies in administering these statutes.

DATES: Comments and suggestions concerning the proposed rulemaking, including proposals for rules, must be received before 5:15 est, on March 20, 1978.

ADDRESS: Interested persons are invited to submit their comments and suggestions concerning the proposed rulemaking to the Secretary of the Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT:

Edward Easton, Esq., Office of General Counsel, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-523-0379.

SUPPLEMENTARY INFORMATION: The Commission is considering promulgating interpretive rules and policy statements to interpret the statutory language of section 201(a) of the Antidumping Act, 1921 and section 303(b) of the Tariff Act of 1930. Also under consideration are the issuance of guidelines concerning the administration of the statutes. Potential sources for suggestions in formulating proposed rules include, but are not limited to: (1) the Commission's determinations under the above-cited statutes, (2) those reports of the Senate Finance Committee and the House Committee on Ways and Means which refer to the administration of the subject statutes and, (3) those holdings of the U.S. Customs Court and the U.S. Court of Customs and Patent Appeals which refer to the administration of the Antidumping Act, 1921, by the Commission. The Commission reserves the right, after consideration of any comments and suggestions, to issue no rules or statements.

By order of the Commission:

Issued: January 12, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-1311 Filed 1-16-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182 and 186]

[Docket No. 77N-0176]

DEXTRANS (AVERAGE MOLECULAR WEIGHT BELOW 100,000)

Affirmation of GRAS Status as Indirect Human Food Ingredients and Deletion of GRAS Status as Direct Human Food Ingredients

Correction

In FR Doc. 77-33165 appearing at page 59518 in the issue for Friday, November 18, 1977, make the following changes:

(1) In the paragraph "For further information contact", the phone number for Corbin I. Miles now reading "202-472-475." should have read "202-472-4750."

(2) On page 59519, the last line of the second column, "(molecular weight 700,000)" should have read "(molecular weight 70,000)".

(3) On page 59521, in the first column, the table in § 186.1275(b), in the last two lines, "kkm" should have read "ppm" in both places.

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 113]

MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION AND SOCIOECONOMIC PROGRAMS

Issuance of New Part

AGENCY: Bureau of Indian Affiars Interior.

ACTION: Proposed issuance of new part.

SUMMARY: These regulations proposed to implement section 1(b) of the Act of October 27, 1972, set forth procedures and guidelines to govern the use of funds awarded to the Osage Tribe by PUB. L. 92-586, enacted October 27, 1972. The funds were awarded for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Indian Tribe of Oklahoma.

DATE: Comments by February 16, 1978.

ADDRESSES: Mail comments to: Assistant Secretary for Indian Affairs, Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 1951 Constitution Avenue NW., Washington, D.C. 20245. Deliver hand carried comments to: Assistant Secretary for Indian Affairs Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 18th and C Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ramona L. Osborne, Bureau of Indian Affairs, Office of Indian Education Progams, Washington, D.C., 202-343-7387.

SUPPLEMENTARY INFORMATION: Beginning on page 47795 of the October 10, 1975, FEDERAL REGISTER (40 FR 47795) there was published a notice to add a proposed new Part 113 to Subchapter J, Chapter 1, Title 25 of the Code of Federal Regulations. The addition was proposed pursuant to the authority contained in the Act of October 27, 1972 (86 Stat. 1295).

The purpose of the proposed new Part was to implement section 1(b) of such Act of October 27, 1972, wherein it is provided that the "sum of $1 million plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe * * *, such programs to be administered as authorized by the Secretary of the Interior."

In compliance with Department of the Interior policy, interested persons were afforded an opportunity to comment on the aforementioned proposed new Part 113 as published on October 10, 1975. Individuals of Osage Indian blood, Osage organizations, and, other interested parties were specifically invited to submit written comments, suggestions, or objections regarding the proposed regulations. The number of comments received was relatively small. About half were general expressions on various aspects of the proposed regulations. To illustrate, one commenter endorsed the provision which permits the expenditure of interest only; another expressed satisfaction that applicants would not be required to prove need as a condition for financial aid; another felt that need should be a condition for assistance; one commenter suggested that the tribal council be permitted to place the funds under the management of a commercial bank; still another suggested that the tribal council should have full responsibility for management of the funds.

On the other hand, at least half of the commenters specifically and strongly objected to the proposed provisions which would permit the tribal council to select a committee to administer the fund. Their opposition was based primarily upon the claim that questions of propriety exist regarding the authority of the tribal council in relationship to the $1 million fund. More specifically, the objectors claim that the tribal council is not representative of the Osage Tribe since the right to vote in tribal elections is restricted to those having an interest in the tribe's mineral estate; that the council's scope of legislative authority is limited to matters pertaining to the mineral estate only; and therefore, the council does not have authority with regard to the $1 million fund. Inasmuch as these claims have been the subject of litigation, and since the questions raised have not been completely resolved we feel it inappropriate to provide further comment.

Recognizing the complex and controversial nature of the comments received, the Bureau felt that additional efforts should be made to insure that all major and pertinent factors were

known and considered in finalizing the regulations. In this regard, the Bureau contacted and/or held consultation meetings with a number of Osage organizations. These included, among others, the Osage Tribal Council; the Osage Nation Organization; and, each Village Committee of the three Osage Indian Villages, i.e., Hominy, Greyhorse, and Pawhuska.

Due consideration has now been given to all comments and views which were made either in response to the published proposed regulations, or those expressed in the consultation meetings. Overwhelmingly, the focal point of these expressions reflect widespread and grave concern regarding (1) an administering body for, and, (2) the beneficiaries of the $1 million fund. More specifically, there are serious and conflicting views as to who is to administer the fund; and, whether or not blood quantum is to be a factor in determining who is to receive financial aid as provided by the proposed new Part.

Unquestionably, these concerns transcend the $1 million fund. They are rooted in complex problems and circumstances which encompass and affect the very well-being of the Osage Tribe. For this reason, the Bureau has determined it appropriate to incorporate into the regulations, fundamental principles which not only accommodate the expressed concerns, but, which also, and perhaps more importantly, enhance the posture of the Osage people as a Tribe. These principles give recognition to the fact that it is the Tribes, as aggregate units, which provides the basis for the Federal Government's trust responsibility and relationship with Indian people. Foremost among the principles are the following: (1) Clearly, the legislation intends that the $1 million be used for the benefit of the Osage Tribe; (2) The Congress placed high value upon Osage heritage by specifically requiring that beneficiaries of such legislation be of Osage Indian blood; (3) Any program, to be of greatest benefit to the Osage Tribe must, of necessity, enhance and perpetuate the longevity of the tribe; (4) Those having a practicing knowledge of the Osage heritage—its customs and traditions—can best advance the Osage people as a tribe; and, (5) Undoubtedly, the best interest of the tribe can be served through concerted efforts to maximize participation of those having this practicing knowledge and who are able and willing to acquire appropriate skills and knowledge which can benefit both himself and the tribe.

These principles, upon their application, can (1) accommodate the Congressional intent that the funds benefit the Osage Tribe; (2) further the Federal policy of Indian Self-Determination; and, (3) advance the desire of the Osage people that their existence as a Tribe, and, their trust relationship with the Federal Government be enhanced.

Five years have passed since the $1 million sum was appropriated. During this time efforts to finalize regulations for use of the funds have been hampered by a number of conditions, including the previously mentioned litigation. The Bureau feels that further delay in making these funds available would not be in the best interest of the Osage Tribe. Therefore, until the heretofore mentioned questions of propriety are resolved, the Bureau has determined that it shall administer the fund in the manner prescribed by the proposed new Part 113. While certain provisions may appear somewhat contradictory to the policy of Self-Determination, they are adjudged to be in the best interest of the Osage Tribe at this particular time, given the complexity of current problems.

Accordingly, the proposed regulations published on October 10, 1975, have been revised to reflect the foregoing principles and determinations; and, are herewith published as proposed regulations. Primary author of this document is Ramona L. Osborne, Education Specialist, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C., 202-343-7387.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, any individual of Osage Indian blood, Osage organizations, and, other interested parties are invited to submit written comments, suggestions, or, objections regarding the proposed regulations on or before February 16, 1978, as follows:

1. By mail, address to the Assistant Secretary for Indian Affairs, Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 1951 Constitution Avenue NW., Washington, D.C. 20245.

2. By hand, deliver to the Assistant Secretary for Indian Affairs, Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 18th and C Streets NW., Washington, D.C.

Comments, suggestions, or objections received on or before February 16, 1978, will be considered in preparing the final regulations.

For further information contact Ramona L. Osborne, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C., 202-343-7387.

This notice, as did the heretofore mentioned notice of October 10, 1975, proposes to add a new Part 113 to Subchapter J, Chapter I, Title 25 of the Code of Federal Regulations, to read as follows:

PART 113—EXPENDITURE OF EDUCATION AND SOCIOECONOMIC FUNDS OF THE OSAGE TRIBE OF INDIANS

Sec.
113.1 Purpose and scope.
113.2 Definitions.
113.3 Principal to be invested, interest only to be expended.
113.4 Eligible applicants.
113.5 Interim Osage Tribal Education Committee.
113.6 Establishment of Osage Tribal Education Committee.
113.7 Duties and responsibilities of the Osage Tribal Education Committee.
113.8 Other socioeconomic programs.
113.9 Use of funds for Committee Administrative Costs.
113.10 Regulations to apply for indefinite period of time.
113.11 Appeals.

AUTHORITY: 86 Stat. 1295.

§ 113.1 Purpose and scope.

(a) Pub. L. 92-586, enacted October 27, 1972, makes provision whereby the sum of $1 million, together with other funds which revert to the Osage Tribe, "may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe of Indians of Oklahoma, such programs to be administered as authorized by the Secretary of the Interior."

(b) The purpose of the regulations in this Part is to set forth procedures and guidelines to govern the use of such funds. Included are (1) application requirements and processes for use of these funds for educational purposes by eligible persons; and, (2) procedures whereby the funds may also be used for socioeconomic programs of benefit to the Osage Tribe.

§ 113.2 Definitions.

(a) "Act" means Pub. L. 92-586 enacted October 27, 1972 (86 Stat. 1295).

(b) "Secretary" means the Secretary of the Department of the Interior.

(c) "Assistant Secretary" means the Assistant Secretary for Indian Affairs.

(d) "Superintendent" means the official in charge of the Bureau of Indian Affairs Osage Indian Agency.

(e) "Reverted Funds" means the unpaid portions of the per capita distribution funds, as provided by the Act, which were not distributed because they were (1) Unclaimed within the period specified by the Act; or, (2) for an amount totaling less than $20 due an individual from one or more shares of one or more Osage allottees. The Act provides that such unpaid funds revert to the Osage Tribe and upon their reverting thereto are to be used together with the $1 million fund for education or other socioeconomic programs of benefit to the Osage Tribe.

(f) "Allottee" means a person whose name appears on the roll of the Osage

Tribe of Indians approved by the Secretary of the Interior on April 11, 1908, pursuant to the Act of June 28, 1906 (34 Stat. 539).

(g) "Osage Tribal Education Committee" means the committee selected to administer the provisions of this Part as specified by § 113.6.

(h) "Other Socioeconomic Programs" means activities, other than educational, for which funds may be used, as specified by § 113.16 of this Part.

(i) "Educational Programs/Purposes" means those endeavors or activities for which funds under this Part may be used to advance the formal, academic education or vocational/technical training of eligible persons.

(j) "Point System" means a set of specific conditions appropriate to an application for educational assistance for which a specified number of points are awarded to an application for each condition met. Such point system provides the basis for rating and ranking all applications for financial assistance under this Part.

(k) "Rating Applications" means the method, or procedure, by which each and all applications are individually evaluated against the point system to determine (1) which, if any, of the conditions for which points are awarded, have been met by the applicant; and, (2) the total number of points earned.

(l) "Ranking Applications" means the process by which all applications, after having been rated, are placed in a descending order according to the total number of points awarded each.

§ 113.3 Principal to be invested, interest only to be expended.

(a) The principal sum of $1 million and reverted funds shall be invested and reinvested at the highest available rate of interest by the Bureau of Indian Affairs on behalf of the Osage Tribe. Expenditures for the purposes of this Part shall not be made from the principal sum, but, shall be made against only the interest generated from such principal sum, and, other funds which revert to the tribe as provided by the Act.

§ 113.4 Eligible applicants.

(a) Any person of Osage Indian blood who is an allottee or a descendant of an allottee is eligible to apply for use of funds for the purposes prescribed by, and, in accordance with, the provisions of this Part. All applicants for assistance shall, as a part of the application process, identify his allotment number if he or she is an original allottee; or, if applicant is a descendant of an allottee, then, the allottee through whom eligibility is claimed shall be identified.

§ 113.5 Interim Osage Tribal Education Committee.

(a) To enable the Osage Tribe to begin utilization of funds without further delay, an Interim Osage Tribal Education Committee shall be established to administer the provisions of this Part until a regular Osage Tribal Education Committee can be established for this purpose. Such committee shall be appointed by the Assistant Secretary, and, shall be composed of Bureau education personnel including (1) one Area Office person; and, (2) two persons from the Office of Indian Education Programs.

(b) The Interim Committee shall perform all duties and responsibilities as set out in § 113.7 of this Part, and, in addition, shall assist in the establishment of the regular Osage Tribal Education Committee.

(c) The Interim Committee shall be appointed and convene their first meeting within 45 days after these regulations become final.

§ 113.6 Establishment of Osage Tribal Education Committee.

(a) In an effort to provide the Osage Tribe maximal opportunity to exercise their right to Tribal Self-Determination, an Osage Tribal Education Committee shall be established to perform the on-going responsibilities and provisions of this Part. Such committee, once established, shall replace the Interim Committee.

(b) The Osage Tribal Education Committee shall be composed of seven members and shall include two (2) education staff members of the Bureau; and five (5) persons of Osage Indian blood who are allottees, or, descendants of original allottees. Of the five Osage members, at least three shall be legal residents of, or live within a 20-mile radius of one of the three Osage Indian Villages. Of these, at least one shall reside within the specified radius of the Pawhuska Indian Village; one, at least, within the specified radius of the Hominy Indian Village; and, at least one within the specified radius of the Greyhorse Indian Village.

(c) Selection of the five Osage committee members shall be made by the Assistant Secretary in accordance with the following procedures and provisions:

(1) *Eligibility.* Any adult person of Osage Indian blood who is an allottee, or a descendant of an allottee is eligible to serve on the education committee.

(2) *Applications and Nominations.* Formal application or nomination for committee membership shall be required. In accordance with the provisions of the following paragraph, any eligible person may make application for committee membership by submitting a brief statement requesting that he/she be considered a candidate for such committee; or, any Osage organization, including the Osage Indian Village Committees, may submit the name(s) and address(es) of eligible persons as their nominee(s) for the education committee. Applications and nominations shall be made by registered mail, within 60 days after these regulations become final, to:

Assistant Secretary for Indian Affairs, Attn: Director of Indian Education Programs (Osage Tribal Education Committee), 1951 Constitution Avenue, NW., Washington, D.C. 20245.

(3) *Personal Interview of Applicants and Nominees.* Following the expiration date for receiving applications and nominations, the Bureau shall arrange for personal interviews with all applicants and nominees. The personal interview shall be the primary method for selecting committee members, for, under controlled conditions, it can provide an objective process for selection of the most competent and effective persons to perform committee responsibilities in a fair and reasonable manner. Each interview session shall utilize a standard interview instrument developed by an independent, experienced arbitration agency. The instrument shall be designed to measure the interviewees responses to hypothetical problems which might be encountered in the administration of grant or scholarship programs. All interviews shall be conducted by the same arbitration agency responsible for the interview instrument.

(4) *Selection of Committee Members.* Upon completion of the interview, the arbitration agency shall recommend a reasonable number of applicants or nominees from which the Assistant Secretary for Indian Affairs shall select five Osage persons to serve on the Osage Tribal Education Committee; and shall appoint two Bureau persons to serve on the Committee. The Assistant Secretary for Indian Affairs shall notify all persons of their selection or appointment, and, shall also notify all applicants and nominees of the final selection. Thereafter, the Bureau shall arrange for the Committee to begin assumption of duties and responsibilities from the Interim Committee.

(5) *Committee Vacancies.* Any vacancy shall be filled in the same manner described by this section for the selection of committee members. The period of time for receiving applications shall not exceed 30 days with the expiration date to be announced by the Assistant Secretary for Indian Affairs. The Assistant Secretary for Indian Affairs may appoint an individual to serve for a temporary period of time until vacancy is filled. However, such appointment shall not exceed 45 days.

§ 113.7 Duties and responsibilities of the Osage Tribal Education Committee.

(a) In order to provide maximal use of the limited funds; accommodate the anticipated large number of applications; and, insure prompt, efficient and fair treatment of all applications, a sound and equitable system for administering the program is imperative. In this regard, therefore, and consistent with the policy of Indian Self-Determination, the Osage Tribal Education Committee shall develop an over-all plan, including a systematic, sequential process for selecting awardees which avoids a "first come, first serve" method; and, instead, insures that all applications received prior to the specified closing date, shall be ranked simultaneously to enable equal competition for funds by all applicants.

(b) The procedure shall provide that (1) no funds shall be awarded until all applications have been ranked; and, (2) applications shall not be ranked until all have been rated against the point system.

(c) Specifically, the Over-all Plan shall include:

(1) *Procedures for Receiving and Reviewing Applications.* Such procedures shall set out the following:

(i) Beginning and closing dates for accepting applications;

(ii) Office and address from which application forms may be obtained;

(iii) Address to which applications are to be submitted; and any special method by which they are to be submitted, i.e., certified, registered, or regular mail;

(iv) Date by which all applicants shall have been notified of the Committee decision relative to their application;

(v) Process by which applications shall be reviewed for completeness; and, how additional information shall be requested and received.

(2) *A point system for rating and ranking applications.* The point system is, perhaps, the most important part of the Over-all Plan as required by this section. It shall serve as the standard basis for rating and ranking each and all applications for financial assistance under this Part, in an identical, objective manner.

(i) The point system shall set out specific conditions, or criteria, appropriate to an application for financial assistance, for which a specified number of points shall be awarded to those applications meeting the condition or conditions. For example, an applicant's scholastic achievement or grade average for the preceeding semester could be one condition for which points would be awarded. In this regard, it could be determined that 10 points would be awarded for an "A" average; 7 points for a "B" average, 5 points for a "C" average, etc.

(ii) Each application shall be evaluated against the conditions specified by the point system to determine (A) which, if any, of the conditions applicant has met; (B) the total point value of the application, as derived from the conditions applicant has met; and, (C) the value of each application in relationship to all applications, for ranking purposes. The point value of each condition set out by the point system shall be determined by the education committee.

(iii) In addition to those conditions for which the Osage Tribal Education Committee determines points are to be awarded, the point system shall include provisions whereby points shall also be awarded to those applications, wherein the applicant:

(A) Meets a specified Osage blood quantum requirement which shall be established by the Osage Tribal Education Committee. The specified quantum shall be considered only for the purposes of the point system, and, shall not, in any way, affect or determine eligibility, as any person who meets the requirements of Section 113.4 is eligible to make application for aid under this Part.

(B) Establishes that financial assistance is necessary, and that without such assistance the applicant's personal educational or career objectives would not be attainable. The financial information required shall be established by the Osage Tribal Education Committee.

(C) Provides evidence that other available financial resources have been applied for, and indicates whether or not such application(s) has been approved, and, if so, the amount approved; or, otherwise indicate the status of such application(s). The financial resources information required shall be determined by the Osage Tribal Education Assistance Committee.

The number of points to be awarded for each of the foregoing conditions shall be determined by the Osage Tribal Education Committee. After all applications have been rated according to the point system, they shall be ranked according to the total number of points awarded. Applications receiving the greatest number of points shall be first in line to receive financial aid as provided by this Part. The point system shall specify whether applications are to be rated upon their receipt; at periodic intervals, or, after the specified closing date for receiving applications.

(3) *Procedures for Awarding Funds.* This shall include: (i) Determinations as to whether awards are to be a specified amount, or, whether the amount is to be based upon the applicant's established individual need; and, a formula for affixing amounts.

(ii) The process and date by which applicants shall be notified as to whether or not they are to receive an award, and, how awards are to be announced or published.

(iii) Determinations as to whether payment of awards are to be made directly to the student, or to the educational institution which the respective applicant shall be attending. In addition, the Education Committee shall:

(A) Establish the time and place for convening regular Committee meetings; conditions and procedures for convening special meetings; and, the procedures for notifying members of both regular and special meetings.

(B) Establish a procedure for the selection/election of a Committee chairman and other officers considered appropriate.

(C) Develop a standard application form

(D) Prepare an official document which sets out the Over-all Plan established by the Committee in compliance with the provisions of this Part for submission to the Assistant Secretary for Indian Affairs for approval.

(E) Notify the Osage people, through appropriate media, of the procedures, processes, etc., set out by the Over-all Plan for administering the $1 million fund within a reasonable time after these regulations become final.

(F) Any other responsibilities necessary and/or appropriate to effective performance of committee tasks.

Inasmuch as the Over-all Plan encompasses the full amount of operating procedures, requirements, etc., to be used in administering the fund, the Assistant Secretary for Indian Affairs' approval of such plan shall be required. Any revisions of the approved Over-all Plan shall require strong justification, and, shall also require approval of the Assistant Secretary for Indian Affairs. The approved Over-all Plan shall be printed in its entirety and made available to persons requesting applications; and, upon request, to persons eligible for aid under this part.

§ 113.8 Other socioeconomic programs.

(a) Applications for financial assistance for socioeconomic programs shall be in the form of a narrative proposal which provides a full description of the proposed program. The narrative shall include (1) program objectives; (2) methods for attaining objectives; (3) staff requirements, i.e., number and qualifications; and, (4) program budget.

(b) Applications for socioeconomic program funding shall be considered only if the Osage Tribe is not eligible for participation in other programs which have the same objectives as those proposed by the application.

(c) The Osage Tribal Education Committee shall establish a procedure for considering such applications. In

addition, the Committee shall establish a maximum percentage to be used for funding socioeconomic programs. Such percentage shall not exceed 15 percent of the total funds available during any given year.

(d) Applications approved by the Osage Tribal Education Committee shall also require the approval of the Assistant Secretary for Indian Affairs.

§ 113.9 Use of funds for Committee administrative costs.

(a) A reasonable portion of funds available for expenditure may be used by the Osage Tribal Education Committee in the performance of their duties and responsibilities.

(b) The Committee shall prepare and submit for the Assistant Secretary for Indian Affairs' approval, a budget for each calendar year. The budget may, at the discretion of the Committee, provide for travel and per diem of Committee members. The amount used for program administration shall not exceed 5 percent of the total amount available, except, with the special approval of the Assistant Secretary for Indian Affairs.

§ 113.10 Regulations to apply for indefinite period of time.

These regulations shall cease upon determination of the legal and appropriate body to administer the fund, and, upon the establishment of succeeding regulations.

§ 113.11 Appeals.

The procedure for appealing any decision regarding the awarding of funds under this Part shall be made in accordance with 25 CFR, Part 2, Appeals from Administrative Action.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 2.

FORREST J. GERARD,
Assistant Secretary for Indian Affairs.

[FR Doc. 78-1241 Filed 1-16-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Chapter IV]

RURAL HEALTH CLINIC SERVICES

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY The regulations will apply to services furnished by clinics located in rural, medically underserved areas, and staffed by physican assistants and nurse practitioners. They will establish certification requirements, define covered services, and prescribe reimbursement methods under Medicare (Title XVIII of the Social Security Act) and Medicaid (Title XIX of the Act). The regulations will implement the Rural Health Clinic Services Act of 1977 (Pub. L. 95-210) which is effective on March 1, 1978, for Medicare, and on July 1, 1978, for Medicaid. Medicaid policies will be issued as Notice of Proposed Rulemaking. Policies on certification of clinics and on Medicare coverage and reimbursement will be published as final regulations. These will be revised later if comments indicate that changes are needed.

FOR FURTHER INFORMATION CONTACT:

CERTIFICATION

Lorraine Kyttle, Health Standards and Quality Bureau, HCFA, Room 349, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9748.

MEDICARE COVERAGE AND REIMBURSEMENT

Marinos Svolos, Medicare Bureau, HCFA, Room 106, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9315.

MEDICAID COVERAGE AND REIMBURSEMENT

Emily Nichols, Merdicaid Bureau, HCFA, Room 4513, 330 C. St. SW., Washington, D.C. 20201, 202-245-0701.

Draft regulations will be made available to interested persons as soon as they are completed and may be obtained by contacting the individuals identified above.

Dated: January 6, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Adminstration.

[FR Doc. 78-1281 filed 1-16-78; 8:45 am]

[4110-35]

[42 CFR Part 405]

MEDICARE PROGRAM

Contracts With Health Maintenance Organizations (HMOs)

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Final Regulations.

SUMMARY: The regulations would set forth eligibility conditions and contract requirements and procedures for entities that wish to qualify as HMOs and enter into contracts to provide services to enrollees who are eligible for Medicare benefits under Title XVIII of the Social Security Act. The purpose is to more fully implement provisions of Section 1876 of that Act and to further clarify requirements and procedures. Notice of Proposed Rulemaking was published on December 22, 1976 (41 FR 55718) and all comments are being considered.

FOR FURTHER INFORMATION CONTACT:

Marinos Svolos, Medicare Bureau, HCFA, Room 106, East High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9315.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-1285 Filed 1-16-78; 8:45 am]

[4110-35]

[42 CFR Parts 449 and 405]

PROHIBITION AGAINST REASSIGNMENT OF PROVIDER CLAIMS

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Department is developing regulations to implement statutory provisions which prohibit, with certain exceptions, Medicare and Medicaid providers from assigning claims for reimbursement of services to other persons either through reassignment or power of attorney. Medicaid regulations at 42 CFR 449.31 will be amended to expand and clarify: (1) the current prohibition against reassignment of claims; (2) conditions under which billing agents may be used; and (3) exceptions to the prohibition permitted by law. Medicare regulations will establish related prohibitions, including enforcement provisions, as well as other conditions and exceptions.

FOR FURTHER INFORMATION CONTACT:

Medicaid

Estelle Seldowitz, Division of Policy and Standards, Medicaid Bureau, HCFA, 330 C Street, SW., Washington, D.C. 20201, 202-245-0233.

Medicare

John B. Russell, Division of Technical Policy, Medicare Bureau, HCFA, 6401 Security Blvd., Baltimore, Md. 21235, 301-594-8260.

Dated December 30, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-1287 Filed 1-16-78; 8:45 am]

[4110-35]

Health Care Financing Administration

[42 CFR Parts 446, 447, 448, 449, 450, 451, 452]

MEDICAL ASSISTANCE PROGRAMS

Reorganization and Rewrite of Medicaid Regulations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Recodification proposal.

SUMMARY: HCFA proposes to reorganize and rewrite existing regulations for the Medicaid program (title XIX, Social Security Act) now contained in Parts 446 through 452 of Title 42 (formerly Parts 246 through 252 of Title 45) of the Code of Federal Regulations. The purpose is to produce clear simply written regulations that will be more easily understood by those affected and more useful as a tool for effective program administration. No policy changes will be included: accordingly, the regulations will be published in final form. However, a comment period will be provided so that suggestions for further simplification can be submitted. A related recodification proposal will be published describing a similar rewriting of regulations now in 45 CFR Chapter II. Those regulations cover administrative requirements applicable to all the public assistance programs under the Social Security Act.

FOR FURTHER INFORMATION, CONTACT:

Robert Bergstrom, 202-472-6551.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care, Financing Administration.

[FR Doc. 78-1288 Filed 1-16-78; 8:45 am]

[4110-35]

[42 CFR Part 462]

GRANTS TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSROs)

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The regulations would set forth the requirements that must be met by organizations seeking to be designated as PSROs and specific conditions and procedures for grants to conditionally or fully designated PSROs. They would implement Sections 1152, 1154, and 1155(f) (2) and (3) of the Social Security Act. The purpose is to provide for funding PSROs through grants rather than the current procurement procedures.

FOR FURTHER INFORMATION CONTACT:

Hal Beledoff, Health Standards and Qulaity Bureau, Room 16A-44, Parklawn Building, Rockville, Md. 20857, Phone 301-443-4086.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-1283 Filed 1-16-78; 8:45 am]

[4110-35]

[42 CFR Part 474]

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Sanctions on Practitioners and Providers of Medical Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The regulations would establish criteria and procedures under which the Department will invoke sanctions against a health care practitioner or provider who: (1) provides items or services which are not medically necessary or do not meet professionally recognized standards, or (2) fails to properly document the medical necessity or quality of the services. They would also establish the rights and responsibilities of the health care practitioners or providers, the PSRO, the Statewide Professional Standards Review Council and the Department. The regulations would implement Section 1160 of the Social Security Act and apply to health care services for which payment may be made under that Act. The purpose is to better assure that those services are medically necessary and of acceptable quality.

FOR FURTHER INFORMATION, CONTACT:

Anthony J. Tirone, Health Standards and Quality Bureau, HCFA, Room 16A-39, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3708.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-1282 Filed 1-16-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21502; RM-2737; FCC 77-848]

AMENDING RULES REGARDING SUBSCRIPTION TELEVISION SERVICE

Correction to Preamble

AGENCY: Federal Communications Commission.

ACTION: Correction to the Preamble to Memorandum Opinion and Order and Notice of Inquiry and Notice of Proposed Rulemaking.

SUMMARY: The Preamble appearing in the FEDERAL REGISTER on January 10, 1978, at 43 FR 1516, listed the dates for comments as January 30, 1978 and for reply comments as February 21, 1978. These dates were incorrect, and the correct date for comments due in this proceeding is March 13, 1978, and the date for reply comments is April 12, 1978. The comments and reply comments dates appearing in paragraph 17 of the document itself were published correctly.

DATES: Comments must be received on or before March 13, 1978, and reply comments must be received on or before April 12, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-1284 Filed 1-16-78; 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.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmer Home Administration

[Notice of Designation Number A553]

MISSISSIPPI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Mississippi Counties as a result of various adverse weather conditions shown in the following chart:

MISSISSIPPI: COUNTIES OF

County and dates of disaster	Nature of disaster
Alcorn:	
Jan. 1, 1977 to Aug. 31, 1977.	Drought.
Sept. 13, 1977 to Sept. 25, 1977.	Excessive rainfall.
Amite:	
May 6, 1977 to July 15, 1977.	Severe drought.
Attala:	
Apr. 15, 1977 to July 10, 1977.	Do
Benton:	
Jan. 1, 1977 to Sept. 1, 1977.	Drought.
Bolivar:	
Apr. 19, 1977 to Sept. 12, 1977.	Do.
Calhoun:	
Apr. 1, 1977 to July 11, 1977.	Do.
Chickasaw:	
May 15, 1977 to July 15, 1977.	Do.
Clarke:	
Apr. 15, 1977 to July 15, 1977.	Do.
July 22, 1977 to Sept. 1, 1977.	Excessive rainfall.
Forrest:	
Apr. 1, 1977 to July 31, 1977.	Drought.
Franklin:	
May 8, 1977 to July 12, 1977.	Do.
George:	
May 1, 1977 to July 8, 1977.	Do.
Greene:	
May 4, 1977 to July 7, 1977.	Do.
Grenada:	
Apr. 10, 1977 to June 30, 1977.	Do.
Nov. 4, 1977 to Nov. 29, 1977.	Excessive rainfall.
Hancock:	
May 1, 1977 to July 5, 1977.	Drought.
July 25, 1977 to Sept. 17, 1977.	Excessive rainfall.
Harrison:	
May 8, 1977 to July 11, 1977.	Drought.
Humphreys:	
May 13, 1977 to July 9, 1977.	Do.
Aug. 12, 1977 to Sept. 9, 1977.	Do.
Issaquena:	
May 1, 1977 to Sept. 1, 1977.	Do.
Itawamba:	
May 1, 1977 to Aug. 31, 1977.	Do.
Sept. 1, 1977 to Oct. 31, 1977.	Excessive rainfall.
Jackson:	
May 1, 1977 to July 5, 1977.	Drought.
Jasper:	
May 1, 1977 to June 30, 1977.	Do.
Jefferson:	
May 1, 1977 to July 10, 1977.	Do.
Jefferson Davis:	
May 1, 1977 to July 10, 1977.	Do.
Jones:	
May 1, 1977 to July 5, 1977.	Do.
Lafayette:	
May 1, 1977 to July 15, 1977.	Do.
Lamar:	
May 1, 1977 to July 6, 1977.	Do.
July 15, 1977 to Sept. 15, 1977.	Excessive rain.
Lauderdale:	
Apr. 15, 1977 to July 8, 1977.	Drought.
Lawrence:	
May 5, 1977 to June 30, 1977.	Do.
Leake:	
Apr. 15, 1977 to July 10, 1977.	Do.
Lee:	
Apr. 23, 1977 to July 15, 1977.	Do.
Sept. 1, 1977 to Oct. 10, 1977.	Insects.
Lincoln:	
May 1, 1977 to July 15, 1977.	Drought.
Madison:	
Apr. 25, 1977 to July 25, 1977.	Do.
July 26, 1977 to July 31, 1977.	Excessive rainfall.
Marion:	
May 1, 1977 to July 4, 1977.	Drought.
Marshall:	
May 8, 1977 to Aug. 12, 1977.	Do.
Monroe:	
Apr. 4, 1977 to July 10, 1977.	Do.
July 11, 1977 to July 30, 1977.	Excessive rainfall.
Aug. 28, 1977 to Oct. 5, 1977.	Do.
Montgomery:	
Apr. 1, 1977 to July 9, 1977.	Drought.
July 10, 1977 to Aug. 15, 1977.	Excessive rainfall.
Neshoba:	
Apr. 1, 1977 to Aug. 10, 1977.	Drought.
Newton:	
Apr. 15, 1977 to July 14, 1977.	Do.
Pearl River:	
May 1, 1977 to July 5, 1977.	Do.
July 25, 1977 to Sept. 17, 1977.	Excessive rainfall.
Pike:	
May 2, 1977 to July 7, 1977.	Drought.
Pontotoc:	
Apr. 10, 1977 to Sept. 6, 1977.	Do.
Prentiss:	
Jan. 1, 1977 to Sept. 15, 1977.	Do.
Sharkey:	
May 1, 1977 to Sept. 1, 1977.	Do.
Smith:	
Apr. 23, 1977 to July 12, 1977.	Do.
Stone:	
May 8, 1977 to July 11, 1977.	Do.
Sunflower:	
May 15, 1977 to Aug. 18, 1977.	Do.
July 10, 1977 to Aug. 10, 1977.	Excessive rain—another area.
Tallahatchie:	
Apr. 3, 1977 to Sept. 30, 1977.	Drought.
Tippah:	
Mar. 1, 1977 to Sept. 19, 1977.	Do.
Tishomingo:	
May 8, 1977 to Sept. 1, 1977.	Do.
Union:	
May 1, 1977 to Sept. 15, 1977.	Do.
Walthall:	
May 1, 1977 to July 2, 1977.	Do.
Warren:	
May 1, 1977 to July 30, 1977.	Do.
Sept. 1, 1977 to Oct. 15, 1977.	Excessive rainfall.
Washington:	
May 1, 1977 to Aug. 30, 1977.	Drought.
Wayne:	
Apr. 25, 1977 to Nov. 17, 1977 to.	Drought followed by excessive rainfall.
Webster:	
Apr. 4, 1977 to July 8, 1977.	Drought.
Wilkinson:	
May 2, 1977 to July 8, 1977.	Do.
Aug. 1, 1977 to Sept. 30, 1977.	Excessive rainfall.
Winston:	
Apr. 10, 1977 to July 10, 1977.	Drought.
July 11, 1977 to Nov. 15, 1977 to.	Excessive rainfall.

MISSISSIPPI: COUNTIES OF—Continued

County and dates of disaster	Nature of disaster
Yalobusha:	
Jan. 1, 1977 to Aug. 31, 1977.	Drought.
Oct. 12, 1977	Frost.
Sept. 1, 1977 to Oct. 31, 1977.	Excessive rainfall.
Yazoo:	
Apr. 22, 1977 to July 8, 1977.	Drought.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit B, Paragraph V B, including the recommendation of Governor Cliff Finch that such designation be made.

Applications for emergency loans must be received by this Department no later than July 5, 1978, for physical losses and January 4, 1979, for production loses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 7th day of January, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-1048 Filed 1-16-78; 8:45 am]

[3410-07]

(Notice of Designation No. A552)

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought during periods ranging from April 1 through November 18, 1977, in Bowie, Hood, Stephens, and Swisher Counties and in Castro County from October 1, 1976, through July 31, 1977, also extreme (abnormal) cold January 1 through February 22, 1977, and early frost October 12 and 13, 1977, in Bowie County; intermittent hailstorms May, June, July, and August 1977, and damaging winds September 12, 1977, in Castro County; and extremely heavy rainfall May 20, 1977, and hailstorms June 1 and August 23, 1977, in Swisher County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than June 28, 1978, for physical losses and January 2, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 9th day of January, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-1219 Filed 1-16-78; 8:45 am]

[3410-30]

Food and Nutrition Service

ADVISORY COUNCIL ON MATERNAL, INFANT AND FETAL NUTRITION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT AND FETAL NUTRITION

Date and time: 9 a.m., February 15-16, 1978.
Place: Holiday Inn-Rivermont, 200 West Georgia at Riverside, Memphis, Tenn.
Purpose of meeting: The Council will continue its study of the operations of the special supplemental food program for women, infants, and children (WIC), and will discuss a wide range of matters concerning program operations.
Proposed agenda: The agenda will cover legislative proposals for the WIC program, the migrant demonstration project, results of the participant profile study and the administrative cost study, and the relationship of the WIC program to the supplemental food program. The Council will also observe the operation of the supplemental food program in Memphis.

This meeting will be open to the public.

Persons wishing additional information about this meeting should contact Virginia Hungerford, Special Supplemental Food Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6746.

Dated: January 12, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-1289 Filed 1-16-78; 8:45 am]

[3410-30]

CHILD CARE FOOD PROGRAM

National Average Payment Factors and Food Cost Factors for the Period January 1-June 30, 1978

Pursuant to section 17(b) of the National School Lunch Act (42 U.S.C. 1766(b)) and § 226.4 and § 226.12(h) of the regulations governing the Child Care Food Program (7 CFR Part 226), notice is hereby given that the national average payment factors and food cost factors for meals served to children attending institutions which participate in the Child Care Food Program during the period January 1-June 30, 1978, shall be as follows:

National average payments for breakfasts served in the program: (a) 11.50 cents for each breakfast served in the program; (b) an additional 21.75 cents for each breakfast served to children from families whose incomes meet the eligibility criteria for reduced price school meals; and (c) an additional 28.75 cents for each breakfast served to children from families whose incomes meet the eligibility criteria for free school meals.

National average payments for lunches and suppers served in the program: (a) 14.50 cents for each lunch and supper served in the program; (b) an additional 55.00 cents for each lunch and supper served to children from families whose incomes meet the eligibility criteria for reduced price school meals; and (c) an additional 65.00 cents for each lunch and supper served to children from families whose incomes meet the eligibility criteria for free school meals.

For supplements served in the program: (a) 6.00 cents for each supplement served; (b) an additional 12.00 cents for each supplement served to children from families whose incomes meet the eligibility criteria for reduced price school meals; and (c) an additional 17.75 cents for each supplement served to children from families whose incomes meet the criteria for free school meals.

The total amount of payments to be made to each State agency from the sums appropriated for the program shall be based upon these national average payment factors and the number of meals of each type served.

The above factors for breakfasts are identical to those prescribed for breakfasts under the School Breakfast Program; the factors prescribed for lunches and suppers are identical to

those prescribed for lunches served under the National School Lunch Program. National average payment factors for supplements are unique to the Child Care Food Program. These factors are adjusted semi-annually to reflect changes in the Consumer Price Index series for food away from home.

Food cost factors for meals served to children attending family and group day care homes whose sponsoring organizations participate in the Child Care Food Program during the period January 1 to June 30, 1978, shall be as follows: (a) 45.50 cents for each lunch or supper; (b) 25.50 cents for each breakfast; and (c) 15.50 cents for each supplement.

The above food cost factors may be used by sponsoring organizations for all family and group day care homes under their jurisdiction, in lieu of maintaining records on the actual cost of food used. These factors are adjusted semi-annually to reflect changes in the Consumer Price Index series for food away from home.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Child Care Food Program (7 CFR Part 226).

(Catalog of Federal Domestic Assistance Program No. 10.558.)

Effective date: This notice shall be effective as of January 1, 1978.

Dated: January 13, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 78-1387 Filed 1-16-78; 8:45 am]

[3410-30]

NATIONAL SCHOOL LUNCH PROGRAM

Payment for the Period January 1-June 30, 1978

Pursuant to section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 210.4 and § 210.11 of the regulations governing the National School Lunch Program (7 CFR Part 210), notice is hereby given of adjustments in the national average factors for payment for lunches and the maximum rates of reimbursements. The national average factors for payment for lunches served during the six-month period January 1-June 30, 1978, to children participating in the National School Lunch Program are as follows: (a) 14.50 cents from general cash-for-food assistance funds for each lunch; (b) an additional 55.00 cents from special cash assistance funds for each reduced price lunch, and (c) an additional 65.00 cents from special cash assistance funds for each free lunch.

The total amount of general cash-for-food assistance payments and special cash assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors.

The above factors represent a 3.1 percent increase in the factors prescribed for the period July-December 1977. This represents the percent of increase during the six-month period May-November, 1977 (from 199.3 in May 1977 to 205.4 in November 1977) in the series for food away from home of the Consumer Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For the six-month period January 1-June 30, 1978, (a) the maximum rate of reimbursement from general cash-for-food assistance funds shall be 20.50 cents per lunch served; (b) the maximum per lunch reimbursement (from a combination of general cash for food assistance and special cash assistance funds) shall be 94.50 cents for a free lunch and 84.50 cents for a reduced price lunch.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210) and the regulations for Determining Eligibility for Free and Reduced Price meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.555.)

Effective date: This notice shall be effective as of January 1, 1978.

Dated: January 13, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 78-1388 Filed 1-16-78; 8:45 am]

[3410-30]

SCHOOL BREAKFAST PROGRAM

National Average Payment for the Period January 1-June 30, 1978

Pursuant to section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 220.4 and § 220.9 of the regulations governing the school breakfast program (7 CFR Part 220), notice is hereby given that the national average payment factors for breakfasts served during the six-month period January 1-June 30, 1978, to children participating in the school breakfast program shall be: (a) 11.50 cents for all breakfasts; (b) an additional 21.75 cents for each reduced price breakfast, and (c) additional 28.75 cents for each free breakfast. The total amount of breakfast assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors: *Provided, however,* That additional payments shall be made in such amounts as are needed to finance reimbursement rates assigned for especially needy schools under § 220.9.

The above factors represent a 3.1 percent increase in the factors prescribed for the period January 1-June 30, 1978. This represents the percent of increase during the six-month period May to November 1977 (from 199.3 in May 1977 to 205.4 in November 1977) in the series for food away from home of the Consumer Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For nonespecially needy schools, the maximum rates of reimbursement for paid breakfasts, for reduced price breakfasts, and for free breakfasts shall be equal to the respective factors set out above.

For especially needy schools, the maximum rates of reimbursement are established pursuant to section 12 of Pub. L. 95-166, the National School Lunch Act and Child Nutrition Amendments of 1977. This law requires that these rates be computed using two methods and that the method yielding the higher rates be used. Accordingly, for especially needy schools, the maximum rate of reimbursement for paid breakfasts shall be equal to the national average factor for all breakfasts, and the maximum rate of reimbursement for reduced price and free breakfasts shall be 45.25 and 50.25 cents, respectively.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the school breakfast program (7 CFR Part 220) and the regulations for determining eligibility for free and reduced price meals and free milk in schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.553.)

Effective date: This notice shall be effective as of January 1, 1978.

Dated: January 13, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 78-1386 Filed 1-16-78; 8:45 am]

[3410-11]

Forest Service

GOSPEL—HUMP WILDERNESS STUDY AREA AND LAND MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Gospel-Hump Wilderness Study Area and Land Management Plan, Forest Service Report Number USDA-FS-R1(17) DES (Adm) 78-4.

The environmental statement concerns a recommendation for a Wilderness Study Area of 236,830 acres of National Forest land in the Nezperce and Payette National Forests, both north and south of the Salmon River in northern Idaho, and a Land Management Plan for 212,444 acres of National Forest land in the Nezperce National Forest.

This draft environmental statement was filed with EPA on January 9, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3231, 12th St. & Independence Avenue SW., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoual, Mont. 59807.
USDA Forest Service, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530.
USDA Forest Service, Payette National Forest, McCall, Idaho 83638.

A limited number of single copies are available upon request to Forest Supervisor Donald L. Biddison, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Don Biddison, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530. Comments must be received by March 9, 1978 in order to be considered in the preparation of the final environmental statement.

Dated: January 9, 1978.

ROBERT H. TORHEIM,
Regional Forester,
Northern Region, Forest Service.

[Fr Doc. 78-1222 Filed 1—16-78; 8:45 am]

[3410-15]

Rural Electrification Administration

MINNKOTA POWER COOPERATIVE, INC.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $177,000,000 to Minnkota Power Cooperative, Inc., (Minnkota) of Grand forks, N. Dak. These loan funds will be used to finance Minnkota's proposed 30 percent undivided ownership interest in the proposed Coyote No. 1 project in Mercer County, N. Dak., which consists of a single unit 410 MW minemouth lignite-fired steam generating station, conversion of 212 miles of transmission line from 230 kV to 345 kV, approximately 70 miles of related new 345 kV transmission line and other related facilities being constructed by Ottertail Power Company of Fergus Falls, Minn.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedules for advances to the borrower from Andrew L. Freeman, Manager, Minnkota Power Cooperative, Inc., P.O. Box 1318, Grand Forks, N. Dak. 58201.

In order to be considered, proposals must be submitted on or before February 16, 1978, to Mr. Freeman. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Minnkota and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 10th day of January 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-1220 Filed 1-16-78; 8:45 am]

[3410-16]

Soil Conservation Service

SALADO CREEK WATERSHED, TEXAS

Intent To Not 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 Salado Creek Watershed, Bexar County, Tex.

The environmental assessment of this federally-assisted 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 project concerns a plan to provide flood protection for the portion of San Antonio, Tex., subject to flood damages from Salado Creek and for the agricultural land within the watershed subject to flood damages from Salado Creek and its tributaries. The planned works of improvement include technical assistance for the acceleration of applying land treatment measures and 15 floodwater retarding structures. To date, approximately 70 percent of the accelerated land treatment measures and 8 floodwater retarding structures are constructed or under construction.

The Notice of Intent to not 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 proposal will be taken until February 16, 1978.

Dated: January 5, 1978.

(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).)

VICTOR H. BARRY, Jr.,
Deputy Administrator for
Programs.

[FR Doc. 78—1181 Filed 1-16-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-1-31; Docket 31222; Agreement CAB 21715-A6]

ORDER

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of January 1978.

Application of Allegheny Airlines, Inc., for an exemption pursuant to sections 408(a)(5) and 416(b) of the Federal Aviation Act of 1958, as amended, and agreement between Allegheny Airlines, Inc., and Southern Jersey Airways, Inc.

By order 70-6-147, June 26, 1970, the Board authorized Allegheny Airlines to suspend service temporarily at Atlantic City and Cape May, N.J.,[1] and approved agreement CAB 21715 between Allegheny and Atlantic City Airlines, Inc. (ACA), which provides for ACA to operate an Allegheny commuter replacement service between the suspended points and Philadelphia. The agreement, as amended, provides for additional permissive service in the Atlantic City/Cape May-Newark markets.

On August 1, 1977, Allegheny filed an application for approval of amendment No. 6 to agreement CAB 21715, which provides for extension of the Atlantic City/Cape May replacement service to Millville, N.J. Under the proposal, Southern Jersey Airways (formerly ACA)[2] would operate a permissive service as an Allegheny commuter between Millville and Philadelphia on a turnaround basis as well as between Cape May and Philadelphia via Millville. These services would be in addition to the basic pattern of service now provided to Cape May and Atlantic City by Southern Jersey. Allegheny requests that the approval be co-extensive with the basic replacement agreement, i.e., until June 21, 1980. In order to effectuate the amended agreement, Allegheny also requests an exemption from section 401 of the Act to the extent necessary to permit service at Millville, and exemption from section 408(a)(5) of the Act insofar as additional control over the operations of Southern Jersey will be involved.

In support of its application, Allegheny states that the operations conducted by Southern Jersey at Cape May and Atlantic City are characterized by a high degree of seasonality;[3] during the winter months, from September to May, Southern Jersey uses only one of its two Twin Otter aircraft in scheduled operations with the other devoted to occasional charter flights and extra sections; the proposed permissive service to Millville would permit Southern Jersey to make use of excess aircraft time available without adversely affecting the basic Cape May/Atlantic City replacement services; the Millville services are expected to be profitable;[4] there is substantial support from the community for the new flights;[5] and an exemption from section 401 is warranted because of the limited extent of the proposed service, the experimental nature of the Allegheny commuter flights to be operated, and the public benefits which are likely to result from grant of the authority requested.[6]

Answers in support of Allegheny's application have been filed by the City of Millville and Cumberland County Board of Freeholders and by Wyble Advertising located in Millville. No other answers have been received.

We have decided to grant Allegheny's request for an exemption to serve Millville and to approve amendment No. 6 agreement CAB 21715 so as to authorize the carrier to provide service to the point through its Allegheny commuter, Southern Jersey, as an adjunct to the replacement services being provided at Cape May and Atlantic City. Finally, we will exempt Allegheny from section 408 of the Act to the extent necessary to implement the amended agreement.

We find that grant of the authority requested is in the public interest. Allegheny's application has generated a substantial amount of civic support indicating that the proposed Allegheny commuter services will, in fact, result in significant public benefits. The initial service pattern will consist of nine daily round trips between Millville and Philadelphia, five of which will also serve Cape May. These flights will not cause any deterioration in the basic Allegheny commuter replacement services at Cape May and Atlantic City but rather will complement them and will permit Southern Jersey to make better use of its second Twin Otter aircraft during the off-peak period (September 15-May 15). Passengers at Millville will have the benefit of joint passenger fares in making connections to flights on Allegheny's system, and at Philadelphia they will be served through Allegheny's facilities on the same basis as other Allegheny commuter passengers. The schedules will be printed in Allegheny's timetable and in the Official Airline Guide, and the community will have the assurance of service standards similar to those included in other Allegheny commuter agreements.

The arrangement will also benefit both Allegheny and the commuter air carrier. Allegheny will have feed traffic from Millville to other points on its system, contributing to system revenues. It will be reimbursed for support services it will provide for Southern Jersey on the same basis as it is paid for such services at Cape May and Atlantic City. The commuter carrier will achieve increased aircraft utilization during the off-peak period and expects to carry sufficient passengers to and from Millville to produce profits for the operations. Profitable results for the commuter would, in turn, provide route stregthening support for the basic Cape May/Atlantic City replacement services.

We further find that the operations of Allegheny and Southern Jersey are affected by unusual circumstances. Millville has not received certificated service since 1953,[7] and, therefore, the market for the proposed commuter service is untested. Although the amended agreement provides for Millville service, this will not be required

[1] Allegheny's certificate authority at Cape May is seasonal, extending for the period commencing not earlier than June 1 or later than June 15 and terminating not earlier than September 1 or later than September 15 of each year. By application filed July 15, 1975, Allegheny requested exemption authority to permit ACA to serve Cape May between September 15 and June 1 of each year. Such services had already been provided and were contemplated in the original agreement; however, Allegheny determined that, on review of the situation and its certificate authority, an exemption was required. By order 75-9-39, September 15, 1975, the Board granted Allegheny's request.

[2] By plan of merger effective July 1, 1977, ACA merged into Southern Jersey. By order 77-10-48, October 13, 1977, the Board approved amendment No. 5 to agreement CAB 21715, which provided for the substitution of Southern Jersey for ACA as the Allegheny commuter carrier at Cape May and Atlantic City.

[3] Allegheny presents data which show that 32 percent of Southern Jersey's traffic at Atlantic City and 61 percent at Cape May is enplaned during the months of June, July, and August.

[4] The applicant indicates that if the proposed Millville service is as profitable as anticipated, Southern Jersey would buy a third Twin Otter aircraft in order to continue the operations during the next peak summer season. The new aircraft could then be used during the ensuing winter months in charter activities and for special sections.

[5] Attached to the application are a series of letters from civic officials and business executives in the Millville area attesting to the need for air service at that community.

[6] Benefits would include reservation service through Allegheny's reservation center, inclusion of Millville in Allegheny's timetables and in the Official Airline Guide, joint passenger fares and air freight rates on connections to flights on Allegheny's system, and the same facilities at Philadelphia as are available to other Allegheny commuter passengers.

[7] Millville received service from Allegheny's predecessor, All-American Airways. It was certificated as Bridgetown-Millville-Vineland, N.J. (served through the Millville Airport); by order E-2367, January 11, 1949, and was deleted June 9, 1953, by Order E-7294, April 10, 1953.

under the terms agreed upon and may be discontinued at any time upon 60 days' notice to, and approval by, Allegheny. The experimental nature of these services and the uncertainty of traffic response make service by Allegheny with its own aircraft impractical. By contrast, Southern Jersey can incorporate service to Millville with an already existing Allegheny commuter service at two other points suspended on Allegheny's system with no significant additional expenditure of resources and with aircraft well suited to the short-haul, low-density markets involved.[9]

Allegheny's involvement in the sevice arrangement at Millvile, especially its participation in reservations and support services and inclusion of schedules in its timetable and the Official Airline Guide, is sufficient to constitute Allegheny engaging in air transportation at the point. Therefore, it requires an exemption under section 416(b) of the Act to hold out service to the community, albeit through its Allegheny commuter. The specific circumstances of this case make the use of the Board's exemption power particularly desirable, since such authority will be permissive and will not place too heavy a burden on the certificated carrier as to minimum service obligations or the need to undergo a full evidentiary hearing.

We wish to emphasize that we view this application as providing us with the opportunity to encourage service to a small community that otherwise would likely not receive scheduled air service in the foreseeable future. This is a situation in which we are facilitating entry of a commuter carrier into a point that it would not ordinarily enter. As to the competitive effects, we recognize that entry by Southern Jersey into Millville is made possible by its attractive arrangement with Allegheny and that, given the small size of the market, entry by Southern Jersey might leave no room for profitable service by some potential competitor. Allowing this arrangement to go forward does not, however, give Southern Jersey an unfair competitive advantage over rivals who wish to serve Millville for the simple reason that there is no other commuter carrier proposing such service. We are mindful of the potential anticompetitive effects that may arguably flow from a variety of hupothetical joint venture arrangements between air carriers; but speculation about the types of arrangements factual situations we might be asked to consider in the future is no reason to deny a proposed arrangement today that will provide clear public benefits and is not itself anticompetitive.[9] We, of course, will retain jurisdiction over the arrangement and we will monitor the arrangement during the remaining life of the Cape May/Atlantic City replacement agreement. We believe that the public benefits being offered to Millville passengers are so positive that to deprive them of the opportunity to receive scheduled service as contemplated in the agreement before us would be contrary to the public interest.[10]

We conclude that Southern Jersey's record and experience render it qualified to provide the proposed replacement services. We are satisfied that there are no safety considerations which would warrant a determination that the replacement arrangement will not be in the public interest. Southern Jersey is a commuter air carrier and as such has been issued an Air Taxi/Commercial Operator Certificate by the Federal Aviation Administration (FAA). The Secretary of Transportation, through the FAA, is charged by law with ensuring the highest degree of safety in air transportation, and, to this end, monitors the operations of Southern Jersey in accordance with the provisions of the Federal Aviation Act and the applicable safety regulations. In this connection, we have received a written evaluation from the FAA of Southern Jersey's safety and compliance record.[11]

We further find that certification would be an undue burden on Southern Jersey by reason of the limited extent of, and unusual circumstances affecting, its operations. The carrier's operations are of limited extent in terms of both the proposed replacement services involved and the overall scope of its operations. Furthermore, the nature of the small aircraft which a commuter carrier uses tends to restrict the scope of its operations. The accommodations on these aircraft not only limit the competitive capabilities of Southern Jersey, but also limit the amount of traffic it can carry and the length of markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certificate procedures would impose a severe financial burden on the carrier wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden because certification would deprive Southern Jersey of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul, low-density markets.

We have also considered the facts presented here and our findings in light of *Air Line Pilots Association* v. *CAB*, 494 F. 2d 1118 (D.C. Cir. 1974), involving air taxi replacement services. We find that it would not be desirable or in the public interest to require Southern Jersey to undergo certification proceedings in order to provide the replacement services for Allegheny that are specified. Thus, in view of the volume of operations of the replacement carrier and the scope of replacement services at issue, and the Board's findings and conclusions in orders 72-9-39, September 12, 1972, and 73-1-3, January 2, 1973, we further find that the statutory conditions and guidelines for exemption, under section 416(b) of the Act, continue to exist.

The agreement provides for the establishment of joint passenger fares and air freight rates applicable to the connecting service which will be available between Southern Jersey's Allegheny commuter service at Millville and Allegheny's other services. We view the maintenance of the certificated fare level for passengers utilizing Southern Jersey's replacement services to be in the public interest, and we are specifically conditioning approval of the amended agreement upon the establishment by Allegheny and Southern Jersey of joint passenger fares and cargo rates at levels equal to or less than the through, single-factor fares which Allegheny could charge if it were serving Millville with its own aircraft.[12]

In addition, phase 4 of the *Domestic Passenger-Fare Investigation* (Docket 21866) requires that joint fares be provided in all markets over all routings.

[9] The distance between Millville and Philadelphia is approximately 38 air miles.

[9] There is one aspect of the agreement between Allegheny and Southern Jersey (part XII, section 2: a convenant that Southern Jersey will not undertake new services in any of Allegheny's authorized markets) that requires some further analysis. This is a standard convenant that appears in other Allegheny commuter agreements. It raises the issue of the reasonableness of the convenant which appears to be a broad agreement not to compete. While we do not believe that this convenant warrants present disapproval of the Millville agreement, we have determined to give this matter general consideration in the context of the entire Allegheny commuter program.

[10] Compare *Allegheny Airlines, Inc., et. al., Agreement CAB 20967-A1* (Galion), Order 71-4-198, where a similar agreement was disapproved in a market that already received commuter service. We are not presented here with the facts of *Galion*, and are not required at this point to decide whether we would continue to follow that precedent.

[11] Southern Jersey is registered with the Board and has insurance in effect. A copy of the FAA's letter giving a safety and compliance evaluation of Southern Jersey has been placed in this docket.

[12] Since the substitute service by Southern Jersey, like other Allegheny commuter attangements, will likely be perceived as service by Allegheny, we believe that the same consumer protection provisions should apply to the Millville Allegheny commuter services as apply to all other such services, i.e., standard baggage liability, overbooking, and other provisions common to certificated carrier tariffs.

Therefore, in order to effectuate this Board policy, we will require Allegheny to publish for the Millville services provided by Southern Jersey all joint-fare tariffs required to be filed by the Board in Phase 4 of the *Domestic Passenger-Fare Investigation*, and we anticipate that Allegheny will file such tariff revisions as may be necessary to meet this requirement.

With respect to the requirements of section 408 of the Act, essentially the same control factors are presented here as were presented in the original Allegheny-ACA agreement, as amended. It therefore appears that, as a result of the proposed amended agreement, Allegheny will control Southern Jersey within the meaning of section 408. However, we have decided, under section 408(a)(5), to exempt the acquisition of control by Allegheny over Southern Jersey, a noncertificated air carrier, from the provisions of section 408. Approval of the agreement in question will not create a monopoly, restrain competition, or jeopardize another air carrier not a party to the transaction or be inconsistent with the public interest. In these circumstances, to require Allegheny to obtain approval under section 408(b) and the applicable regulations would unduly delay implementation of the agreement, would subject the parties to unnecessary expense, and would not be in the public interest.

We have reviewed the environmental evaluation submitted by Allegheny,[13] to which no answers were filed, and find that our action approving the amended agreement will not have a significant adverse impact on the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The proposed operations with Twin Otter aircraft would not exceed the pollutant screening threshold of the Millville Municipal Airport. Furthermore, the standard noise screening test of Part 312 of the Board's regulations shows that the services proposed, although the first scheduled commuter operations at Millville, would increase the noise level by less than 17 percent; therefore, no further analysis is required.[14]

[13] In its application, Allegheny requested a waiver of the filing requirements of Part 312. However, the carrier later filed a supplement to the application containing an environmental evaluation for the proposed service. We will therefore dismiss the waiver request.

[14] We recognize that the noise screening test formula of Part 312 was derived for comparison of jet operations, and we have stated in the past that computations under the noise screening test are not required when new service with nonjet aircraft is being proposed at an airport where jet service is being provided. However, we continue to believe that the Part 312 tests are useful in cases where nonjet operations are being added at an airport where only nonjet operations are conducted (see Order 77-10-33).

In view of the above, the Board finds that: (1) Amendment NMO. 6 to agreement CAB 21715, as conditioned, will not be adverse to the public interest or in violation of the Federal Aviation Act; and (2) enforcement of sections 401 and 408 of the Act, to the extent that they would otherwise prevent Allegheny and Southern Jersey from implementing the agreement, would be an undue burden on them by reason of the limited extent of and unusual circumstances affecting their operations and is not in the public interest.

Accordingly, *it is ordered*, That:

1. Allegheny Airlines, Inc., be exempted from the provisions of section 401 of the Act and the terms, conditions, and limitations of its certificate of public convenience and necessity for Route 97 to the extent that they would prevent it from engaging in air transportation between Millville, N.J., and Philadelphia, Pa.;

2. Amendment No. 6 to agreement CAB 21715, be approved, subject to the following conditions:

(a) Any financial transactions between Allegheny and Southern Jersey be appended to Allegheny's Form 41 reports and so footnoted;

(b) The information requested in (a) above must be shown separately from similar information regarding financial transactions between Allegheny and various other replacement carriers;

(c) Approval of this agreement does not constitute approval for ratemaking puposes and in no event shall Allegheny receive any subsidy, directly or indirectly, for the operations performed or the services provided by any party under the agreement;

(d) Southern Jersey shall, with respect to the operations conducted under this agreement, keep on deposit with the Board a signed counterpart of agreement CAB 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol, approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment which may be approved by the Board and to which the holder becomes a party;

(e) Allegheny shall publish in its tariffs for the services operated under the agreement all joint-fare tariffs required to be filed by the Board in the *Domestic Passenger-Fare Investigation*, Docket 21866; and

(f) Allegheny shall publish in its tariffs, and Southern Jersey shall concur in, as long as the agreement is in effect, local passenger fares and cargo rates to and from Millville, and such rates shall not exceed the rates which Allegheny could charge for travel between Millville, on the one hand, and other points on Allegheny's system, on the other hand, if it were providing service at Millville with its own aircraft;

3. As provided in section 408(a)(5) of the Federal Aviation Act of 1958, as amended, the acquisition by Allegheny of control over Southern Jersey, be temporarily exempted from the requirements of section 408 of the Act to the extent necessary for the implementation of amendment No. 6 to agreement CAB 21715;

4. The authority granted in paragraphs 1, 2, and 3 of this order will be effective until June 26, 1980, unless sooner terminated by the Board;

5. The request by Allegheny Airlines, Inc., for a waiver of the requirements of section 312 of the Board's economic regulations be dismissed;

6. This order may be amended or revoked at any time in the discretion of the Board without hearing; and

7. We will retain jurisdiction over all authority granted in this case.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-1276 Filed 1-16-78; 8:45 am]

[6320-01]

[Order 78-1-46; Docket 31975]

CONTINENTAL AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of January 1978.

By tariff revisions[1] marked to become effective February 1, 1978, Continental Air Lines, Inc. (Continental) proposes to increase its passenger fares in the mainland-Hawaii market by 6 percent. The carrier bases its proposal on data for the year ended March 1977, adjusted to reflect certain alleged mathematical and "conceptual" errors in the Board's previous rate of return (ROI) analysis.

The Board has concluded that the proposed fares may be unjust, unreasonable, unjustly discriminatory, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Continental challenges several aspects of the methodology used by the Board in computing ROI for the mainland-Hawaii entity. Without getting into the merits of those allegations, the fact remains that it seeks a 6-percent fare increase based on "industry" operating results for the year ended March 1977, even though more cur-

[1] Revisions to Airline Tariff Publishing Co., Agent, Tariff CAB No. 258.

rent data are available. In the past, certain data for this operating entity necessary to make the ROI calculation were not available to the carriers on a current basis. However, this is no longer the case and carriers now have access to all data required for an entity ROI analysis. Furthermore, as the Board has stated before, the carriers should use the most current data available in seeking to justify any proposed fare increase. There is no reason why the Board should, in effect, do a carrier's justification for it, particularly when the carrier seeks to make several changes in the methodology used to compute ROI. At this time, any refiling made within the next 60 days should be based on industry data for the year ended September 1977.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404 and 1002,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in the attached appendix, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in the attached appendix are suspended and their use deferred to and including May 1, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed with the aforesaid tariff and served upon Continental Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

TARIFF CAB NO. 258 ISSUED BY AIRLINE TARIFF PUBLISHING CO., AGENT

All increased fares in Supplement No. 82.

[FR Doc 78-1278 Filed 1-16-78; 8:45 am]

[6320-01]

[Order 78-1-33; Docket 30777, Agreement CAB 27083, R-1 through R-17]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Issued under delegated authority January 11, 1978.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the JT31 South Pacific Passenger Traffic Conference held in Hollywood, Florida during November 1977, and was filed with the Board on January 3, 1978.

The agreement would amend the fare structure over the South Pacific, effective April 1, 1978, through March 31, 1979, and proposes to increase first-class fares by amounts ranging from 7.9 to 13.4 percent[1] and 14/35-day individual inclusive-tour (IIT) fares by about 3 percent. Normal economy fares and all other promotional fares would remain at existing levels.[2] The agreement also proposes to reduce the advance-purchase excursion (APEX) fare's advance-purchase requirement from 60 to 45 days, increase the stopover charge of the 14/35-day IIT and group inclusive-tour (GIT) fares from $25 to $30, and revise the GIT minimum tour price to Papeete from $15 per day to $110 for the first six days plus $15 for each additional day.

In addition, the agreement would introduce a budget fare, similar to the one in effect between New York and London, in various South Pacific markets at levels representing discounts from normal economy fares of slightly more than 50 percent. Conditions of the fare would include passenger selection of the week of departure, ticket purchase at least 21 days before the beginning of that week, carrier assignment and written notification of a specific date and flight 7 to 14 days before the week of departure, a penalty of 50 percent of the fare paid for voluntary cancellation, and a weekly capacity limitation of 15 percent of economy-class seats. The Budget fare would be available for one-way as well as roundtrip travel, would be combinable with certain other fares, and would permit no stopovers.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and comments from interested persons. The carrier justification should be set out in the tabular format suggested in Order 75-7-88, July 17, 1975, with historical data as reported to the Board in form 41 reports by functional account for total transpacific services for the year ended September 1977, adjusted to exclude market areas not covered by the agreement, e.g., North/Central and intra-Pacific total operations, and all scheduled cargo and charter operations pertaining to the South Pacific market. The end result should establish the present economic status of scheduled passenger service in the market area covered by the agreement. The carrier will also be expected to include a forecast for the year ending March 1979, under both present and proposed fares. Costs should be allocated between the passenger and cargo compartments of scheduled combination aircraft, using both the "space method" stipulated by the Board in the *Nonpriority Mail Rates* decision, Orders 70-4-9 and 70-4-10, and the "revenue-offset method" adopted in Phase 7 of the *Domestic Passenger-Fare Investigation*, Orders 71-4-59 and 71-4-60, with complete explanatory notes and supporting detail, including statistical data, to describe the methods used in making the allocation.

In addition, the carrier will be expected to submit detailed traffic data showing revenue passenger-miles and revenue by specific fare category, as well as capacity and load-factor information, both for the historical period and the forecast period, including and excluding implementation of the agreement.

Accordingly, *It is ordered* That:

1. Pan American World Airways, Inc., the only U.S. air carrier member of the International Air Transport Association providing service within the area affected by the agreement, shall file, with 15 calendar days of the date of service of this order, full documentation and economic justification for the fares and related conditions embodied in the subject agreement;

2. Comments and objections from interested persons and parties shall be submitted within 15 calendar days after the date of service of this order;

3. Replies to submissions received in response to ordering paragraph 2 above shall be submitted within 25 calendar days after the date of service of this order; and

4. Insofar as air transportation as defined by the Act is concerned, tariffs

[1] The first-class increases are designed to establish a first-class/normal economy fare ratio of 1.6/1. However, increases in first-class fares to Papeete would be limited to about 10 percent, leaving those ratios slightly lower.

[2] A comparison of existing and proposed fares in selected U.S.-South Pacific markets is shown in the Appendix, which is filed with the Office of the Federal Register as part of the original document.

implementing the subject agreement shall not be filed in advance of Board approval of the agreement.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Fares and Rates.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-1277 Filed 1-16-78; 8:45 am]

[6320-01]

[Order 78-1-53; Docket 31749]

TRANS WORLD AIRLINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of January 1978.

By tariff revisions[1] bearing the issue date of October 6, and marked to become effective December 21, 1977, Trans World Airlines, Inc. (TWA) proposes to establish a specific commodity rate on books of 76 cents per kg. from New York to London, subject to a minimum weight of 10,000 kgs.

A complaint requesting suspension pending investigation has been filed by Seaboard World Airlines. Inc. (Seaboard). The complaint alleges that: the proposed rate represents an unwarranted and unjustified reduction in the existing 1,000 kg. minimum weight rate; the dilutionary effect of the proposal is far greater than its generative potential; the proposal is for application in the prime eastbound direction, and hence, unlike the multitude of recent specific commodity rate filings designed to fill backhaul capacity, has a significantly greater chance of causing revenue dilution; TWA's projected yield of 19.95 cents per revenue ton-mile is over 40 percent lower than its 33.51 cents per revenue ton-mile costs for the period ending December 31, 1976; TWA's assertion that a 7.3 percent rate reduction will cause an overall industry volume increase for this commodity of 273 percent cannot be accepted without further documentation; and, as an alternative to suspension, Seaboard proposes that the Board limit the experimental period for the proposed rate to no more than three months to test its generative capacity.

In support of its proposal and in answer to the complaint, TWA asserts that: on the basis of discussions with a major shipper, it expects one shipment per week at this rate level; this traffic will be diverted from surface transportation; the proposal will result in about 1.5 million pounds of additional traffic a year; after considering the possible revenue dilution, TWA estimates additional revenues of approximately $474,000 annually; the proposed level covers TWA's all-cargo operating expenses; and, aside from a three-month experimental period being too short, an expiry date is unnecessary because the proposal constitutes only a modest 7.3 percent discount, is not likely to result in significant dilution, and will be withdrawn should the expected traffic fail to materialize.

The Board has determined to dismiss the complant and permit the filing to become effective. The proposal is a narrowly drawn, specific commodity rate designed to divert traffic from surface to air in the New York to London market where capacity exists to accommodate high density traffic. Also, it appears capable of attracting additional volumes of new traffic to air transportation as well as making a contribution to TWA's capacity costs.

Directional load factor data are not filed with the Board. Although eastbound load factors are generally higher than westbound, the overall transatlantic all-cargo load factor for TWA for the year ending June 1977, was only 43 percent. While alleging that the proposal will not generate the traffic volume estimated by TWA, Seaboard does not assert that any of its existing traffic will be diverted. Further, we do not believe TWA would file reduced rates on desirable high density traffic such as books which would dilute its own revenues. Consequently, not only do we expect the dilutionary effect to be minimal, but the high minimum weight attached to the rate will also have a favorable effect on load factors. In addition, while Seaboard contends that the proposed rate yields significantly less than TWA's *revenue* ton-mile costs, the proposal results in approximately 20 cents per ton-mile compared with TWA's transatlantic all-cargo *available* ton-mile costs of approximately 15.2 cents for the year ending June 1977, the latest data on file with the Board. In view of the apparent available capacity on TWA, and the potential of the rate to generate a considerable amount of new traffic at a level which appears to contribute significantly to capacity costs, we see no reason to attempt to limit the term of the rate and will therefore permit it to become effective.

Accordingly, *It is ordered*, That:

The complaint of Seaboard World Airlines, Inc., in Docket 31749 be and hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-1279 Filed 1-16-78; 8:45 am]

[1] Revisions to Tariff CAB No. 313, issued by Trans World Airlines.

[6320-01]

[Docket 31955]

TWIN CITIES-LAS VEGAS/PHOENIX/SAN DIEGO ROUTE PROCEEDING

Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Henry M. Switkay. Future communications should be addressed to Judge Switkay.

Dated at Washington, D.C., January 11, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc 78-1280 Filed 1-16-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Ocean, Resource, and Scientific Policy Coordination, Office of the Assistant Secretary for Policy.

For the U.S. Civil Service Commission,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1092 Filed 1-16-78; 8:45 am]

[6325-01]

DEPARTMENT OF DEFENSE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Deputy Assistant Secretary of Defense (Regional Programs), OASD (Program Analysis and Evaluation), Office of the Secretary of Defense.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the, Commissioners.

[FR Doc. 78-1093 Filed 1-16-78; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the

Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Assistant to the Assistant Administrator for Water and Hazardous Materials, Office of the Assistant Administrator for Water and Hazardous Materials.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the, Commissioners.

[FR Doc. 78-1094 Filed 1-16-78; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy High Commissioner of the Trust Territory, Office of Territorial Affairs.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1095 Filed 1-16-78; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Director of Ocean Resources, Office of the Secretary, Office of the Assistant Secretary—Mineral Resources.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioner.

[FR Doc. 78-1096 Filed 1-16-78; 8:45 am]

[6325-01]

DEPARTMENT OF DEFENSE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the following positions in OASD (Manpower, Reserve Affairs and Logistics), Office of the Secretary of Defense: (1) Deputy Assistant Secretary (Program Management), and (2) Deputy Assistant Secretary (Requirements, Resources, and Analysis).

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1212 Filed 1-16-78; 8:45 am]

[6325-01]

DEPARTMENT OF DEFENSE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary of Defense (Planning and Requirements), Office of DASD (Planning and Requirements), Office of Assistant Secretary (M&RA), Office of the Secretary of Defense.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1211 Filed 1-16-78; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the positions of (1) Deputy Commissioner for Postsecondary Education, Bureau of Postsecondary Education; and (2) Assistant Commissioner for Policy Studies, Office of Policy Studies, Office of Education.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1213 Filed 1-16-78; 8:45 am]

[6325-01]

U.S. WATER RESOURCES COUNCIL

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the U.S. Water Resources Council to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Water Resources Council.

For the United States Civil Service Commission,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-1214 Filed 1-16-78; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON HOUSING FOR THE 1980 CENSUS

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I, Supp. V, 1975)), notice is hereby given that the Census Advisory Committee on Housing for the 1980 Census will convene on February 9, 1978 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on Housing for the 1980 Census was established in March 1976 to provide technical advice and guidance in planning the forthcoming decennial Census of Housing to ensure that the major statistical requirements of decision makers are provided by the 1980 Census of Housing program.

The Committee is composed of 18 members including a representative from each of nine organizations and nine members appointed by the Secretary of Commerce.

The agenda for the meeting, which is scheduled to adjourn at 4:30 p.m., is: (1) Status of 1980 census planning; (2) results from pretest evaluation studies, including housing quality items and shelter cost items; (3) disability follow-on survey; (4) definitional problems, including (a) half bathrooms, (b) seasonal, and (c) vacant for rent; (5) 1980 Census of Housing—tabulation and publication plans for 100 percent items; (6) Committee discussion of tabulation and publication plans; and (7) election of chairperson-elect, Committee recommendations, and plans for the next meeting.

The meeting will be open to the public and a brief period will be set

aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. Arthur F. Young, Chief, Housing Division, Bureau of the Census, Federal Building 3, Suitland, Md. (Mail address: Washington, D.C. 20233). Telephone: 301-763-2863.

Dated: January 11, 1978.

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

[FR Doc. 78-1221 Filed 1-16-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meeting With Partially Closed Session

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, as amended, notice is hereby given (1) of a joint meeting of the North Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP), both established under section 302(g), of the Act, (2) separate meetings of the SSC and AP.

The SSC and AP will meet separately on February 21-22, 1978, in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 9 a.m.

The Council and its SSC and AP will meet jointly on Thursday and Friday, February 23, 24, 1978, in the Hill Building, Rooms 808/809, 6th and G Streets, Anchorage, Alaska. The meeting will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. The meetings may be extended or shortened depending upon progress on the agenda.

FEBRUARY 23

Proposed Agenda: (1) Executive Director's Report and other Council administrative business; (2) Reports from Scientific and Statistical Committee and Advisory Panel; (3) Progress report and update from Council's Drafting Management Planning Teams; (4) Closed Session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), and the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians; (5) Period for public comment; (6) Review of foreign fishing activities.

FEBRUARY 24

(1) Discussions of management plans; Tanner Crab off Alaska; Gulf of Alaska Groundfish Fishery during 1978; Commercial Troll Fisheries off the Coast of Alaska; Bering Sea Clam Fishery; King Crab, and Bering Sea Groundfish Fishery; (2) Other Council business.

The SSC and AP meetings will be open to the public, as will all but the early afternoon of the first day of the Council meeting. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone 907-274-4563.

A closed session of the Council is planned for the early afternoon of the first day, February 23, 1978, from 1:30 to 3:30 p.m. to hear and discuss Department of State security classified reports concerning preparations and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission, and continuing negotiations with the Canadians.

Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on January 5, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: January 12, 1978.

WINFRED H. MEIBOHM,
Associate Director, National
Marine Fisheries Service.

[FR Doc. 78-1198 Filed 1-16-78; 8:45 am]

[3510-22]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

The South Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet March 23-24, 1978, at Council headquarters, Suite 306, 1 Southpark Circle, Charleston, S.C. 29407. The meeting starts at 8 a.m. on March 23, and will adjourn at about noon on March 24.

Proposed Agenda: (1) Billfish Fishery Management Plan development progress; (2) Snapper-Grouper Fishery Management plan status; (3) King & Spanish Mackerel Fishery Management Plan; and (4) Other management business.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, S.C. 29407, telephone 803-571-4366.

Dated: January 12, 1978.

WINFRED H. MEIBOHM,
Associate Director, National
Marine Fisheries Service.

[FR Doc. 78-1205 Filed 1-16-78; 8:45 am]

[6820-44]

COMMISSION ON FEDERAL PAPERWORK

PRIVACY ACT OF 1974

Revocation and Transfer of System of Records

Pursuant to the provision of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a, the Commission on Federal Paperwork published in the FEDERAL REGISTER (42 FR 7980) notices of the existence of the following systems of records subject to the Privacy Act:

CFP-1, General Personnel Files; CFP-2, Financial Records—CFP; and CFP-3, Payroll Records—Commission on Federal Paperwork. The Commission will terminate operations on January 31, 1978, and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records, subsequent to the termination date:

CFP-1

System name: General Personnel Files—CFP
To be destroyed.

CFP-2

System name: Financial Records—CFP
To be retained by the General Services Administration, External Ser-

vices Branch, for use in concluding administrative operations of the Commission on Federal Paperwork as part of the GSA system of records, Defunct Agency Records, GSA/OAD-36.

CFP-3

System name: Payroll Records—Commission on Federal Paperwork

To be retained by the General Services Administration, Region 3, Payroll Processing Branch, for use in concluding administrative operations of the Commission on Federal Paperwork as part of the GSA system of records. Defunct Agency Records, GSA/OAD-36.

FRANK HORTON,
Chairman, Commission on Federal Paperwork.

[FR Doc. 78-974 Filed 1-16-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

DEPARTMENT OF THE ARMY HISTORICAL ADVISORY COMMITTEE

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the consolidation of the Department of the Army Historical Advisory Committee (DAHAC) and the U.S. Army Military History Research Collection Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget concurs with the consolidation. The consolidated committee will be known as the Department of the Army Historical Advisory Committee.

The nature and purpose of the DAHAC is to provide the Secretary of the Army and the Chief of Military History with advice and counsel regarding: (1) the conformity of the Army's historical work and methods with professional standards, (2) effective cooperation between the historical and military professions in advancing the purpose of the Army Historical Program and (3) the mission of the U.S. Army Center of Military History to further the study of and interest in military history in both civilian and military schools.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 12, 1978.

[FR Doc. 78-1217 Filed 1-16-78; 8:45 am]

[3810-70]

Office of the Secretary of Defense

DEFENSE SCIENCE BOARD TASK FORCE ON ICBMs/M-X

Advisory Committee Meeting

The Defense Science Board Task Force on ICBMs/M-X will meet in closed session 7-8 February 1978 at Lawrence Livermore Laboratory, Livermore, Calif.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will evaluate alternative basing modes for U.S. land-based ICBMs. Concepts will be examined against survivability, cost and SALT verification considerations.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc. 78-1216 Filed 1-16-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of October 24 Through October 28, 1977

Notice is hereby given that during the week of October 24 through October 28, 1977, the decisions and order summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

REQUESTS FOR EXCEPTION

Columbia Hydrocarbon Corp., Columbus, Ohio, FEE-4336, propane

Columbia Hydrocarbon Corp. (Columbia) filed an application for exception which, if granted, would have increased the amount of propane which the firm is entitled to purchase from its base period suppliers and would have resulted in the assignment of Dome Petroleum, Ltd., as its base period supplier for the additional quantity of propane. In considering Columbia's exception request, the DOE observed that during 1972 the firm had executed long-term contracts with the Standard Oil Co. of Ohio (Sohio) and the Exxon Co., U.S.A. (Exxon), which provided that Sohio and Exxon would supply substantial quantities of propane to Columbia. However, the amount of propane which Columbia actually received from Sohio and Exxon during the base period used in the DOE regulations was considerably less than the amounts provided for in these contracts, and consequently the amount of propane which Columbia is entitled to receive on an ongoing basis from its base period suppliers is less than the amounts originally specified in the contracts. However, the DOE rejected Columbia's claim that the application of the provisions of the mandatory petroleum allocation regulations had therefore caused the firm to incur a gross inequity. In this regard the DOE noted that Columbia had not experienced any difficulty in purchasing propane on the surplus market and in fact had purchased surplus propane in quantities which exceeded the amounts specified in the contracts which the firm had executed with Sohio and Exxon. Finally, the DOE noted that since propane is in relatively short supply, a firm which seeks exception relief increasing its allocation of propane must demonstrate that it is affected in an unusual manner by the general requirements governing the allocation of propane. Since Columbia had failed to make this demonstration, the DOE concluded that the Columbia exception request should be denied.

Eason Oil Co., Oklahoma City, Okla., FXE-4575, crude oil

Eason Oil Co. (Eason) filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Eason and would permit the firm to continue to sell a portion of the crude oil produced from the Weiner property in the Flora field at upper tier ceiling prices. *Eason Oil Co.*, 5 FEA Par. 83,116 (March 30, 1977). In considering the exception application, the DOE found that Eason continued to incur increased operating expenses on the Weiner property and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of this determination and on the basis of the operating data which Eason had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Eason to sell 54.69 percent of the crude oil produced from the Weiner property for the benefit of the working interest owners at upper tier ceiling prices.

George A. Hoffman, Henderson, Ky., FEE-4041, Crude oil

George A. Hoffman (Hoffman) filed an application for exception from the provisions 10 CFR, Part 212, Subpart D, which, if granted, would permit Hoffman to retain the revenues which he realized by selling the crude oil produced from the Edward Bohnhoff lease at unlawful price levels during the period November 1973 through December 1975. In considering the exception application, the DOE observed that substantial monetary sums were required for the medical care and supervision of the majority working interest owner, who had been adjudged incompetent by a State court. The revenues attributable to that individual, as his only means of financial sup-

port, were found to be barely sufficient to meet his continuing health care expenses. In view of these circumstances, the DOE concluded that the majority working interest owner would experience a severe and irreparable injury if the revenues which he receives from the Bohnhoff lease were reduced in order to refund the overcharges that occurred during the November 1973 through December 1975 period. However, Hoffman failed to demonstrate that the remaining working interest owners would incur an irreparable injury in the absence of retroactive exception relief. The DOE therefore ordered that Hoffman's request for retroactive exception relief for the individual who owned the majority working interest share of the Bohnhoff lease be granted, and that the remainder of the Hoffman application be denied.

REQUESTS FOR STAY

J&W Refining, Inc., Tucker, Tex., DES-0005; DST-0001, crude oil

J&W Refining, Inc. (J&W), requested that the application to it of 10 CFR 211.67 (the old oil entitlements program) be stayed pending a final determination of an application for exception which the firm had filed. In considering the request, the DOE observed that in view of the agency's ability to adjust J&W's entitlements position on subsequent entitlement notices, the firm could be compensated for any entitlement purchases which it makes in excess of the level which the DOE ultimately determines is appropriate. Under these circumstances and in view of J&W's statement that it had sufficient funds to purchase entitlements, the DOE concluded that J&W had not made a showing that it would be irreparably injured in the absence of the requested stay. The DOE also found that J&W's contention that it would succeed on the merits of its exception request was not supported by the record. The material furnished by J&W indicated that the firm's alleged cash flow difficulties were not caused by the entitlements program, but resulted instead from J&W's decision to purchase and modernize its refinery facility. J&W's stay request was therefore denied.

Texas Oil & Gas Corp., Dallas, Tex., FES-4855, natural gas producer

On September 30, 1977, Texas Oil & Gas Corp. (Texas Oil) filed an application for stay of the regulatory provisions applicable to the pricing of natural gas liquids pending the determination of an application for exception filed by the firm. Texas Oil also requested in its stay submission that a compliance proceeding being conducted by DOE Region VI be suspended pending a decision on the exception request. In considering the application for stay, the DOE determined that Texas Oil had not demonstrated that it was likely to succeed on the merits of the exception request or that the firm would incur an irreparable injury in the absence of a stay. The DOE further found that the public interest was best served by permitting the Region VI compliance proceeding to continue concurrently with the consideration of Texas Oil's request for exception relief. Accordingly, the Texas Oil application for stay was denied.

REQUEST FOR MODIFICATION AND RECISSION

Bassett Oil & Equipment Co., Inc., Bassett, Va., DRR-0002, No. 2 fuel oil

Bassett Oil & Equipment Co., Inc. (Bassett), filed an application for modification of a decision and order which the Federal Energy Administration issued to the firm on May 4, 1977. *Bassett Oil and Equipment Co., Inc.*, 5 FEA Par. 85,058 (May 4, 1977). In that determination, the FEA granted an application for stay of a remedial order which had been issued to Bassett by FEA Region III on April 13, 1977. However, as an express condition of the stay which was approved, Bassett was required to establish an irrevocable escrow account and deposit a portion of the disputed funds into the account pending a final determination on the firm's appeal of the remedial order. *Cf. General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976). In its application for modification, Bassett requested that the May 4 order be modified to eliminate the escrow requirement, and that a further order be entered permitting the firm to recover from the escrow account the funds which it had deposited. Bassett contended that the approval of this request would be consistent with the new procedures adopted by the FEA in *Rickelson Oil & Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977). In considering the Bassett request, the DOE noted that unlike the situation in the *Rickelson* case, the DOE has already fully considered all of the contentions raised by Bassett on appeal, and has issued a final decision and order with respect to that appeal on August 3, 1977. Except for a finding that the remedial order should be remanded to the Region III Office for a more precise calculation of the firm's refund obligation, the August 3 decision and order rejected all of the contentions raised by Bassett concerning the factual and legal findings of the remedial order. Under these circumstances, the DOE concluded that it would be inappropriate to dissolve the escrow account at the present time and the Bassett application for modification was denied.

SUMMARY DECISIONS

The following firms filed applications for stay of remedial orders which the DOE issued to the respective firms. In considering the stay requests, the DOE referred to a recent decision in *Rickelson Oil & Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which it held that a remedial order will generally be stayed pending the determination of an Appeal unless it appeared that the public interest required immediate compliance with the remedial order. Since the record in these cases did not indicate that the public interest required immediate compliance with the remedial orders, the DOE granted the requests for stay pending consideration of the appeals.

Home Gas Service, Inc., Swanton, Ohio, FRS-1466

B. W. Whittington, Corpus Christi, Tex., DRS-0008

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

L. A. Olson Co., Madison, Wis., FEE-4840

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Little Major Oil Co., Denton, Tex., FEE-4128

The following submission was dismissed on the grounds that the request was now moot:

Shell Oil Co., Washington, D.C., FES-3545

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 10, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

[FR Doc. 78-1138 Filed 1-16-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

October 31 Through November 4, 1977

Notice is hereby given that during the week of October 31 through November 4, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Harpel Petroleum Corp., Casper, Wyo., FRA-1275, crude oil.

The Harpel Petroleum Corp. appealed from a Remedial Order which the Deputy Regional Administrator of Region VIII of the Federal Energy Administration issued to the firm on April 11, 1977. In the Remedial Order, the FEA found that during the period December 1973 through December 1974 Harpel had sold the crude oil produced from Lease C-37886, located near Casper, Wyo., at prices which were in excess of the ceiling price levels determined in accordance with 6 CFR 150.353 and 10 CFR 212.73. The Remedial Order therefore directed Harpel to refund the overcharges which it had realized to the purchaser of the crude oil. In considering the Appeal, the DOE rejected the firm's contention that the term "10 barrels" as used in the stripper well property exemption means that a property qualifies for the exemption if the wells involved produce less than 11.0 barrels of crude oil per day. The DOE also found that even if the total production from the property during the calendar year prior to the audit period were divided by the number of wells which Harpel contended was appropriate, which was greater than the number used in the Remedial Order, the property would still have produced in excess of 10 barrels per day per well and would not have qualified for the stripper well property exemption. The DOE also determined that it was inappropriate at this stage of the proceedings to

consider Harpel's contention that the FEA should have adjusted production figures for the Lease for temperature and gravity variations from industry standards. Moreover, Harpel had failed to establish that those adjustments, if made, would have any effect on the property's qualification as a stripper well property. Finally, the DOE determined that Harpel had failed to submit any evidence in support of its contention that it would experience an undue hardship if it were required to make the refunds required by the April 11 Remedial Order. Accordingly, the Harpel Appeal was denied.

Union Oil Co., of California, Schaumburg, Ill., FIA-1381, refined petroleum products.

The Union Oil Co. of California (Union) appealed from an Interpretation which the Regional Counsel of FEA Region IX issued to Francis O. Scarpulla. The Interpretation held that six consignees under contract with Union qualify as wholesale purchaser-resellers as that term is defined in Section 211.52 of the DOE Regulations. In its Appeal, Union contended that the Interpretation was based upon an erroneous factual situation and upon decisions, regulations, and Rulings which violate the purpose and mandate of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). In considering Union's Appeal, the DOE determined that even under Union's version of the facts, the Regional Counsel properly found that the consignees qualify as wholesale purchaser-resellers. Nevertheless, the DOE stated that if Union believes that the factual situation which is set forth in the Interpretation is materially different from Union's version of the facts, the firm may submit a separate Request for Interpretation to the Regional Counsel. The DOE also held that Union was in effect requesting that the DOE amend its regulations, an action which can be effected only through a rulemaking procedure. In addition, the DOE noted that the Interpretation was based on regulatory provisions which emphasize the importance of preserving the competitive viability of all sectors of the petroleum industry and was therefore consistent with the purposes of the EPAA. The Union Appeal was accordingly denied.

White's Union 76, Rock, W. Va., FRA-1343, motor gasoline.

White's Union 76 appealed from a Remedial Order issued to the firm on May 5, 1977, by the Director of the Compliance Division of the Federal Energy Administration, Region III. In the May 5 Order, FEA Region III found that during the period from January 1974 through December 1975, White's charged prices for motor gasoline which were in excess of the maximum allowable prices for that product calculated pursuant to the provisions of the Mandatory Petroleum Price Regulations. In considering the Appeal, the DOE determined that it was not arbitrary for the FEA to issue a Remedial Order which contradicted the earlier findings made by an FEA auditor during an initial investigation. In fact, the applicable regulations contemplate that reconsiderations of this type be made. The DOE also found that although White's did receive incorrect advice from FEA auditors, it had failed to demonstrate that it relied upon that advice to its detriment. The Appeal was therefore denied.

Requests for Exception

Barber Oil Exploration, Inc., Houston, Tex., FEE-4469, crude oil.

Barber Oil Exploration, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Condon-Federal Lease located in Campbell County, Wyo., at upper tier ceiling prices. In considering the exception request, the DOE found that there had been significant fluctuations in the profitability of Barber's operation at the Condon-Federal Lease during the preceding four years and accordingly, analysis of the firm's historical data did not convincingly reveal that exception relief would be necessary to provide an economic incentive to continue operations at the Condon-Federal Lease. However, the DOE also found that Barber was about to incur substantial additional operating costs as a result of an order of the United States Department of Interior Geological Survey which requires that Barber utilize certain methods to dispose of salt water produced at the Lease after October 1, 1977. As a result, the DOE determined that the Barber no longer had an economic incentive to continue the production of crude oil from the Condon-Federal Lease. In previous decisions, the FEA granted exception relief which permitted a firm to reflect in its selling prices the unrecovered increased operating costs per barrel incurred between the second quarter of 1973 and the most recent six-month period for which production and financial data were availabale. In considering the Barber application, however, the DOE determined that this type of relief would not provide Barber with a sufficient economic incentive to continue its operation of the Condon-Federal Lease. Alternative exception relief was therefore approved which permitted Barber to reflect in its selling prices the unrecovered difference between the cost of producing a barrel of crude oil during the second quarter of 1973 and the firm's actual operating expenses during the first six months of 1977 as adjusted to include projected increased expenses associated with salt water disposal.

Great Southern Oil & Gas Co., Inc., Lafayette, La., FEE-4417, crude oil.

Great Southern Oil & Gas Co., (Great Southern) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Castille RASUA Breaux No. 1 well located in St. Martin Parrish, La., at upper tier ceiling prices. In considering the exception request, the DOE found that operating costs at the Castille well had increased to the point where they exceeded the revenues which Great Southern received from the sale of crude oil at lower tier ceiling prices. The DOE also found that the abandonment of the Castille well would result in the loss of approximately 25,000 barrels of otherwise recoverable crude oil. Consequently, the DOE concluded that exception relief should be granted to Great Southern in order to provide the firm with an economic incentive to continue production operations at the Castille well. In accordance with the precedent established in a number of prior Decisions, the DOE permitted Great Southern to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Castille well for the benefit of the working interest owners.

Koch Exploration Co., Wichita, Kans., FEE-4433, FEE-4434, crude oil

The Koch Exploration Co. filed two applications for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Sink Draw No. 1 lease and the Cedar Rim No. 3 lease at upper tier ceiling prices. In considering the exception requests, the DOE determined that the costs of producing crude oil from the Sink Draw and Cedar Rim leases have increased significantly since 1973 and, as a result of these increased costs, Koch's production costs per barrel now exceed the prices which the firm is permitted to charge for the crude oil which it sells. Consequently, the DOE concluded that Koch did not have an economic incentive to continue to operate the Sink Draw and Cedar Rim leases. The DOE also found that there was little possibility that the crude oil which is recoverable from the reservoirs underlying the two leases would be produced in the absence of exception relief. On the basis of precedents involving similar factual situations, the DOE concluded that the application of the lower tier ceiling price rule to Koch resulted in a gross inequity. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed fiscal period, Koch was granted exception relief which permits the firm to sell at upper tier ceiling prices a portion of the crude oil produced and sold from the Sink Draw and Cedar Rim leases for the benefit of the working interest owners.

Phillips Petroleum Co., Bartlesville, Okla., FEE-4435, crude oil

The Phillips Petroleum Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Foote lease, located in Oklahoma County, Okla., at upper tier ceiling prices. In considering the exception request, the DOE found that Phillips' operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Foote lease if the crude oil were subject to the lower tier ceiling price rule. The DOE also determined that if Phillips abandoned its operations at the Foote lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous Decisions by the FEA, the DOE determined that Phillips should be permitted to sell 88.13 percent of the crude oil produced from the Foote lease for its benefit at upper tier ceiling prices.

Request for Stay

Getty Oil Co., Washington, D.C., DRS-0006, crude oil

The Getty Oil Co. (Getty) filed an application for stay with the Office of Administrative Review of the Department of Energy. The Getty submission involved a remedial order which the Deputy Assistant Administrator for Compliance of the Federal Energy Administration issued to the firm on August 12, 1976, and an appeal decision and order which the Department of Energy issued to Getty and the Standard Oil Co. of Ohio on October 7, 1977. *Getty Oil Co.; Standard Oil Co.*, 1 DOE Par. —— (October 7, 1977). The Getty request, if granted, would result in a stay of the refund requirements which are set forth in the remedial order, as amended by the appeal decision, pending judicial review of the two orders. In considering the Getty stay request, the DOE found that there is little likelihood

that Getty will succeed in obtaining the relief which it seeks in the judicial proceeding. The DOE further found that Getty had failed to make a showing that it will incur an irreparable injury in the absence of the stay which it requests. Finally, the DOE determined that contrary to Getty's assertions, the approval of a stay in this matter would not be desirable for public policy reasons. On the basis of these considerations as well as the regulatory criteria set forth in 10 CFR 205.125(b), the DOE determined that the public interest and the desirability of securing timely compliance with the DOE price regulations led to the conclusion that a stay should not be granted in this case. However, in view of the complexity of the proceeding and the large sum of money involved, the DOE determined that the stay of 30 days set forth in the October 7 appeal decision should be extended for an additional 45 days. As a condition of the stay, Getty was required to file its petition for judicial review within 45 days of issuance of the October 7 decision and order.

Supplemental Order

Young Refining Corp., Douglasville, Ga., FEX-0173, crude oil

On June 18, 1976, and December 15, 1976, the FEA issued decisions and orders to the Young Refining Corp. granting the firm exceptions which relieved it of any obligation under the provisions of 10 CFR 211.67 to purchase entitlements during the period April 1976 through March 1977. The June 18 and December 15 orders stated that a review of Young's actual financial operating results would be conducted at the end of the firm's fiscal year in order to consider the appropriateness of the level of exception relief which had been approved. The orders further stated that if Young received excessive entitlements exception relief during its 1977 fiscal year, an adjustment would be made and Young would be required to purchase additional entitlements to account for the excessive benefits. In reviewing the entitlements exception relief provided to Young during its 1977 fiscal year, the DOE determined that Young did not attain either its historical profit margin or its historical return on invested capital and accordingly concluded that no adjustment to Young's 1977 entitlements exception relief was necessary.

Requests for Exception Received From Natural Gas Processors

The Office of Administrative Review of the Department of Energy has issued a decision and order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Amount of price increase (dollars in gallons)
Allied Chemical Corp	FXE-4504	Benedum	$0.0362
	FXE-4505	Sligo	.0238
	FXE-4506	Walnut Bend	.0258
Aminoil USA, Inc	FXE-4515	Aline	.0454
	FXE-4516	Fox	.0173
	FXE-4517	Huntington Beach	.0629
	FXE-4518	Inglewood	.0305
	FXE-4519	Taloga	.0145
	FXE-4520	Tioga	.0194
Arkansas Louisiana Gas Co	FXE-4733	Bistineau	.0155
	FXE-4734	Waskom	.0129
Atlantic Richfield Co	FXE-4686	Bayou Sale	.0059
	FXE-4687	Covington	.0204
	FXE-4688	Crane	.0267
	FXE-4689	Dayton	.0345
	FXE-4690	Drumright	.0278
	FXE-4691	Eldorado	.0199
	FXE-4692	Longview	.0370
	FXE-4693	Midland	.0695
	FXE-4694	North Cowden	.0067
	FXE-4695	Nueces River	.0085
	FXE-4696	Price	.0659
	FXE-4697	Seminole	.0439
	FXE-4698	Spivey	.0229
	FXE-4699	Stevens Calidon	Denied.
	FXE-4700	Swanson River	.0373
Beacon Gasoline Co	FXE-4511	Calumet	.06113
Cabot Corp	FXE-4507	Beaver	.0108
	FXE-4508	Estes	.0172
	FXE-4509	North Terrebonne	.0084
	FXE-4510	Prentice	.0074
Champlin Petroleum Co	FXE-4664	Witcher	.0259
Cities Service Co	FXE-4557	Bryans Mill	.0174
	FXE-4558	Chico	.0153
	FXE-4559	Crowley	.0065
	FXE-4560	Dollarhide	.0130
	FXE-4561	East Texas	.0132
	FXE-4562	Lapeyrouse	.0295
	FXE-4563	Lefors	.0212
	FXE-4564	Maysville	.0118
	FXE-4576	North Cowden	.0122
	FXE-4577	Pampa	.0791
	FXE-4578	Price	.0519
	FXE-4579	Rodman	.0120
	FXE-4580	San Antonio Bay	.0608
	FXE-4581	Stonewall	.0216
	FXE-4582	Waco	.0258
	FXE-4583	Wichita	.0181
Coastal States Gas Corp	FXE-4735	Hidalgo	.0560
Coline Gasoline Corp	FXE-4463	Rincon	.0326
Continental Oil Co	FXE-4591	Acadia	.0681
	FXE-4592	Burnell North Pettus	.0538
	FXE-4593	Hamlin	.0119
	FXE-4594	Maljamar	.0141
	FXE-4595	North Cowden	.0122
	FXE-4596	North Okarche	.0251
	FXE-4597	Rincon	.0290
	FXE-4598	Sussex	.0343
	FXE-4599	West Seminole	.0224
	FXE-4600	West World	.0308
Delta Drilling Co	FXE-4804	Etexas	.0519
Diamond Shamrock	FXE-4472	McKee	.0145
Enkay Corp	FXE-4521	East Texas	.0232
Estates of George H. Costes	FXE-4790	Jay Simmons	.03295
Getty Oil Co	FXE-4601	Bastian Bay	.0361
	FXE-4602	Houma	.0057
	FXE-4603	Vermillion	.0691
Great Western Drilling Co	FXE-4793	Prentice	.0124
	FXE-4794	West Seminole	.0353

Company	Case No.	Plant	Amount of price increase (dollars in gallons)
Kerr McGee Corp	FXE-4522	Beaver	.0126
	FXE-4523	Beaver Creek	.0070
	FXE-4524	Dubach	.0059
	FXE-4525	Maysville	.0162
	FXE-4526	pampa	.0214
MAPCO, Inc	FXE-4527	Altonah	.0495
	FXE-4528	Tyrone	.0311
Marathon Oil Co	FXE-4648	Rocker River	.0964
	FXE-4649	Welder	.1243
	FXE-4650	West Forelands	.0667
	FXE-4651	West Sidney	.0417
McCulloch Gas Processing Corp	FXE-4529	Belle Fourche	.0663
	FXE-4530	Gillette	.0315
	FXE-4531	Oedekoven	.0793
Mobil Oil Corp	FXE-4713	Burnell-North Pettus	.0358
	FXE-4714	Chitwood	.0233
	FXE-4715	Desdemona	.0313
	FXE-4716	Dollarhide	.0145
	FXE-4717	Electra	.0329
	FXE-4718	Hickok	.0238
	FXE-4719	Kermit	.0179
	FXE-4720	Kettleman North Dome	.0248
	FXE-4721	Nueces River	.0079
	FXE-4722	Pegasus	.0109
	FXE-4723	Phillips Bradley	.0287
	FXE-4724	Rio Bravo	.0574
	FXE-4725	Sholem Alechem	.0154
	FXE-4726	Slaughter	.0085
	FXE-4727	West Seminole	.0181
Mustang Fuel Co	FXE-4511	Calumet	.06113
Northern Natural Gas Co	FXE-4605	No. 1 and No. 2 plants in Martin County, Tex.	.02157
Phillips Petroleum Co	FXE-4532	Andrews	.0375
	FXE-4533	Benedum	.0201
	FXE-4534	Bradley	.0427
	FXE-4535	Canadian	.0377
	FXE-4536	Crane	.0260
	FXE-4537	Douglas	.0116
	FXE-4538	Dumas	.0174
	FXE-4539	Gray	.0263
	FXE-4540	Henderson	.0275
	FXE-4541	Hobbs	.0169
	FXE-4542	Lee	.0072
	FXE-4543	Lovington	.0278
	FXE-4544	North	.0172
	FXE-4545	Oklahoma	.0304
	FXE-4546	Spraberry	.0145
	FXE-4547	Tunstill	.0480
	FXE-4548	Vermillion	.0175
Shell Oil Co	FXE-4665	Bayou Goula	.0406
	FXE-4666	Black Bayou	.0681
	FXE-4667	Bryans Mill	.0061
	FXE-4668	Camargo	.0317
	FXE-4669	Chalkley	.1349
	FXE-4670	KNDU	.0279
	FXE-4671	Lirette	.0081
	FXE-4672	Mermentau	.0171
	FXE-4673	O'Keene	.0198
	FXE-4674	Prentice	.0060
	FXE-4675	Red Fish Bay	.0213
	FXE-4676	Selling	.0236
	FXE-4677	Tallahala	.0729
	FXE-4678	TXL	.0155
	FXE-4679	Van	.0323
	FXE-4680	Weeks Island	.0133
	FXE-4681	West Seminole	.0243
Signal Petroleum	FXE-4475	Lake Washington	.0109
Tenneco Oil Co	FXE-4737	Chesterville	.0271
	FXE-4738	Dover Hennessey	.0129
	FXE-4739	La Porte	.0100
	FXE-4740	Lake Bouef	.0120
	FXE-4741	Leabo	.0481
	FXE-4742	Mayfield	.0351
	FXE-4743	Mermentau	.0053
	FXE-4744	Normanna	.0256
	FXE-4745	Nuesces River	Denied.
	FXE-4746	Sea Robin	Denied.
	FXE-4747	South Fullerton	.0476
	FXE-4748	Stephens	.0053
	FXE-4749	Ward	.0302
Texaco, Inc	FXE-4565	Garvin County	.0138
	FXE-4566	Handy	.0429
	FXE-4567	Kettleman Hills	.0300
	FXE-4568	Luby	.0213
	FXE-4569	New Hope	.0540
	FXE-4570	Ross South Campens	.0751
	FXE-4571	Shiells Canyon	.0484
	FXE-4572	South Kermit	.0290
	FXE-4573	Tijerina	.0547
	FXE-4574	Van	.0114
Vallery Corp	FXE-4611	Vallery	.0279
Wel-Gas, Inc., of Texas	FXE-4736	Possum Kingdom	.08366

DISMISSALS

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the DOE procedural regulations:

Rayburn Garage, Columbia, Miss., FEE-4653

Reinauer Petroleum Co., Hackensack, N.J., FPI-0126

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

Dated: January 10, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Administrative Review.

[FR Doc. 78-1141 Filed 1-16-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

December 28, 1977, Through January 4, 1978

Notice is hereby given that during the period December 30, 1977, through January 4, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays.

Dated: January 10, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

PROPOSED DECISIONS AND ORDERS

Twin-Tech Oil Co., Washington, D.C., DXE-0069, natural gas liquids

Twin-Tech Oil Co. applied for an extension of the exception relief from the provisions of 10 CFR 212.165 previously granted to the firm. *Twin-Tech Oil Co.*, 5 FEA Par. 83,126 (March 28, 1977). The exception request, if granted, would permit Twin-Tech to increase its selling prices for natural gas liquids and natural gas liquid products above the maximum permissible levels specified in 10 CFR 212.165. On January 4, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Van Fleet Brothers, Inc., Ontario, Calif., FEE-4127, motor gasoline

Van Fleet Brothers, Inc., filed an application for exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Van Fleet to increase its selling prices for regular motor gasoline to two classes of purchaser above the maximum permissible levels specified in 10 CFR 212.93. On December 28, 1977, the DOE issued a proposed decision and order which determined that the exception request be granted.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued proposed decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location	Amount of price increase (dollars in gallons)
Adobe Oil and Gas Corp	DXE-0183	Adobe Sale Ranch	Martin County, Tex	$0.01275
Belridge Oil Co	DXE-0242	Kern County	Kern County, Calif	.1032
Breckenridge Gasoline Co	DXE-0194	Eliasville	Stephens County, Tex	.0786
	DXE-0195	Lodi	Cass County, Tex	.1467
Champlin Petroleum Co	DXE-0196	Gulf Plains	Nueces County, Tex	.0566
	DXE-0197	Mayfield	Kleberg County, Tex	.0480
	DXE-0198	Peoria	Arapahoe County, Colo	.0218
	DXE-0199	South Fullerton	Andrew County, Tex	.0382
Florida Gas Co	DXE-0193	Brooker	Bradford County, Fla	.0192
Halliburton Co./Vessels Gas Processing Co	DXE-0316	Irondale	Adams County, Colo	.0597
Locust Ridge Gas Processing Co	DXE-0315	Locust Ridge	Tensas Parish, La	.06937
Marathon Oil Co	DXE-0175	Camrick	Beaver County, Okla	.0404
	DXE-0176	Cotton Valley	Webster Parish, La	.0234
	DXE-0177	Heyser	Victoria County, Tex	.2568
	DXE-0178	Indian Basin	Eddy County, N. Mex	.0086
	DXE-0179	Markham	Matagorda County, Tex	.0271
	DXE-0180	Scipio	Hillsdale County, Mich	.0240
	DXE-0181	South Coles Levee	Kern County, Calif	.0491
	DXE-0182	Stephens	Claiborne Parish, La	.0295
Permian Corp	DXE-0378	Possum Kingdom	Stephens County, Tex	.0483
	DXE-0379	Todd Ranch	Crockett County, Tex	.0230
Phillips Petroleum Co	DXE-0254	Cimarron	Woodward County, Okla	.0911
	DXE-0255	Goldsmith	Ector County, Tex	.0060
	DXE-0256	Lusk	Lea County, N. Mex	.0183
	DXE-0257	Puckett	Pecos County, Tex	.0545
	DXE-0258	Sooner No. 1	Major County, Okla	.0515

Company	Case No.	Plant	Location	Amount of price increase (dollars in gallons)
Placid Oil Co	DXE-0326	Black Lake	Natchitoches Parish, La	.0074
	DXE-0327	Calumet	St. Mary Parish, La	.0055
	DXE-0328	Lapeyrouse	Terrebonne Parish, La	.0318
	DXE-0329	Lake Washington	Plaquemine Parish, La	.0239
	DXE-0330	Patterson	St. Mary Parish, La	.0217
	DXE-0331	Prentice	Terry County, Tex	.0152
	DXE-0332	Promix	St. Mary Parish, La	.0069
	DXE-0333	Womack Hill	Choctaw County, Ala	.0189
Southern Natural Resources	DXE-0356	Lapeyrouse	Terrebonne Parish, La	.0215
	DXE-0357	Patterson	Terrebonne Parish, La	.0204
	DXE-0358	Sea Robin	Erath Parish, La	.0172
Standard Oil Co. (Indiana)	DXE-0188	Empire Abo	Eddy County, N. Mex	.0061
	DXE-0189	Lake Boeuf	Lafourche Parish, La	.0131
	DXE-0190	Ropes	Harkley County, Tex	.0327
	DXE-0191	South Jennings	Jefferson Davis Parish, La	.0314
	DXE-0192	South Thornwell	Cameron Parish, La	.0234
	DXE-0205	Prentice	Yoakum County, Tex	.0255
	DXE-0206	Third Creek	Watkins County, Colo	.0150
	DXE-0207	White Flat	Nolan County, Tex	.0237
Sun Co., Inc	DXE-0263	Steedman	Pontoc County, Okla	.0307
Upham Oil and Gas Co	DXE-0184	Chico	Wise County, Tex	.0448
Vickers Energy Corp	DXE-0185	Mayfield	Kleberg County, Tex	.0467
	DXE-0186	Patterson	St. Mary Parish, La	.0148
	DXE-0187	Putnam Oswego	Dewey County, Okla	.0059

[FR Doc. 78-1140 Filed 1-16-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

SYNTHETIC NATURAL GAS FEEDSTOCK, AIR PRODUCTS AND CHEMICALS, INC.

Request for Comment

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Request for Comment.

SUMMARY: Air Products and Chemicals Co., Inc. (APC), has submitted to the Economic Regulatory Administration (ERA) a petition requesting an annual allocation of approximately 275,000 barrels of naphtha per year for use as a synthetic natural gas (SNG) feedstock in its proposed SNG facility at Marcus Hook, Pa. APC's proposed plant is an experimental prototype or pilot plant, which will test the use of high boiling point, high sulphur distillate fuel oils (gas oil) as feedstock, to produce methane, ethane, and benzene-toluene-xylene (BTX). The main purpose of this plant is to prove the commercial viability of this process.

DATE: Comments to be submitted by February 3, 1978.

ADDRESS: Comments should be submitted to: Finn K. Neilsen, Office of Fuel Allocation, Specialty Fuels Branch, Economic Regulatory Administration, Room 6318, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams, Freedom of Information Reading Room, 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Finn K. Neilsen, Office of Fuel Allocation, Specialty Fuels Branch, Economic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C. 20461, 202-254-9730.

SUPPLEMENTARY INFORMATION: A file containing all information and data filed in conjunction with APC's petition, other than confidential information which ERA has determined to be exempt from the disclosure requirements of 5 U.S.C. 552, is available for public inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Written comments regarding the APC petition will be accepted and considered if filed by February 3, 1978. Any person submitting written comments with respect to the APC petition should submit five (5) copies and should comply with the requirements of the ERA procedural regulations set forth at 10 CFR 205.9. Comments should be submitted to the Office of Fuel Allocation, Specialty Fuels Branch, ERA, Room 6318, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Finn Neilsen. Comments should be identified on the outside of the envelope and on documents submitted to ERA with the designation "Allocation of SNG Feedstock for APC."

Any information or data submitted pursuant to the above procedures and considered by the person furnishing it to be confidential must be so identified and submitted in one copy only in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. ERA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., January 11, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulations, Economic Regulatory Administration.

[FR Doc. 78-1233 Filed 1-16-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Project No. 618]

ALABAMA POWER CO.

Application for Approval of Change in Land Rights

JANUARY 6, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission 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. All such proceedings shall be continued and further actions shall be taken by the ap-

propriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Public notice is hereby given that an application was filed on September 1, 1977, under the Federal Power Act (16 U.S.C. §§ 791a-825r), by Alabama Power Co. (Correspondence to: Mr. R. P. McDonald, Vice President, Alabama Power Co., P.O. Box 2641, Birmingham, Ala. 35291) for Commission approval of a change in land rights at FERC Project No. 618, known as the Jordan Dam Project. Project No. 618 is located on the Coosa River in Elmore, Chilton, and Coosa Counties, Ala.

Applicant seeks Commission authorization to convey to South Central Bell Telephone Co. an easement over project lands for the purpose of installing and maintaining buried telephone cable and appurtenant facilities necessary to serve a public telephone system in a real estate development located along the northeastern shore of Jordan Reservoir in sections 6, 8, 9, 10, 15, 16, and 17, T. 19 N., R. 18 E., Elmore County, Ala. The real estate development is situated on land owned by Applicant inside the boundary for Project No. 618. The telephone cables would be located on the centerline of, or adjacent to, existing roads, and would be buried to a depth of 30 inches. Trenching would be back-filled and rolled in such a manner as to render it capable of withstanding occasional heavy loads.

Any person desiring to be heard or to make protest with reference to said application should, on or before February 28, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-1242 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. RI78-14]

BRADCO OIL & GAS CO. AND BRADCO PROPERTIES, INC.

Petition for Special Relief Authorizing and Approving Refund Payment Plan

JANUARY 11, 1978.

Take Notice that on November 18, 1977, Bradco Oil & Gas Co. and Bradco Properties, Inc. (Petitioners), 3410 Entex Building, Houston, Tex. 77002, filed in Docket No. RI78-14 a petition for special relief pursuant to Ordering Paragraph (A) of the order issued September 23, 1977, as such order allegedly modified Area Rate Proceeding, et al. (Southern Louisiana), Docket No. AR61-2 and AR69-1, et al. and established October 31, 1977, as the date beyond which Petitioners were permitted under section 8.2.6 of the U.D.C. settlement proposal to advise the Commission of its intention to seek special relief. Peitioners state that they have been unable to make a discharge, by the commitment of new gas reserves, of the refunds accrued through October 1, 1977, and estimate the amounts owing to interstate pipelines in the Southern Louisiana Area to approximate $62,905, inclusive of interest thereon.

Petitioners further state that it is a small producer and would utilize such funds for the purpose of locating, acquiring, and drilling new acreage. Also, that it has caused to be committed reserves of natural gas under other rate schedules unrelated to the aforesaid Southern Louisiana Area Rate Proceeding. Accordingly, Petitioners request the Commission issue an order approving its plan on the basis that the use of such monies to elicit new sources of gas supply will better serve the end-user/consumer than the flow through to these same end-user/consumers of de minimus cash sums.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-1252 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER77-514]

CENTRAL POWER & LIGHT CO.

Certification of Proposed Settlement Agreement to Commission

JANUARY 11, 1978.

Take notice that on January 5, 1978, the Presiding Administrative Law Judge certified to the Commission a proposed settlement agreement filed by Central Power & Light Co. (CP&L). The agreement represents a settlement between CP&L and the "intervening nongenerating wholesale customers". CP&L's joint motion requesting certification states that all parties, including staff, join in the motion.

Any person desiring to be heard or to protest the settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before January 25, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78—1253 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER76-709]

CINCINNATI GAS & ELECTRIC CO.

Filing of Revised Tariff Sheet

JANUARY 11, 1978.

Take notice that on December 27, 1977, the Cincinnati Gas & Electric Co. (CG&E) filed rate WS-P, second revised sheet No. 5, as the revised tariff sheet pertaining to rates applicable to the Village of Georgetown, Ohio, for Commission approval, pursuant to an order of the Commission issued November 23, 1977.

CG&E states that rate WS-P is the settlement rate for Georgetown which will provide an annual increase of $63,743 based on estimated data for the twelve months ending December 31, 1976.

CG&E indicates that a copy of the filing was served on all parties and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a peti-

tion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1254 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-166]

GEORGIA POWER CO.

Proposed Tariff Change

JANUARY 6, 1978.

Take notice that Georgia Power Co. (Georgia Power), on December 30, 1977, tendered for filing proposed changes in its FERC electric tariffs, original volumes No. 1 (full requirements service) and No. 2 (partial requirements service). According to Georgia Power, based on the twelve-month period ended February 28, 1979, the proposed changes would increase revenues from jurisdictional full requirements service by $250,765 and would increase revenues from jurisdictional partial requirements service by $27,995,767. The filing contains proposed rate schedules FR-1 which would replace rate schedule WR-9 (full requirements) and PR-3 which would replace rate schedule PR-2 (partial requirements). Georgia Power requests an effective date of March 1, 1978, for the changes.

Georgia Power asserts that its costs have escalated steadily since the filing of its WR-9 and PR-2 rates, resulting in a large increase in the revenue required from wholesale service. Georgia Power states that the data submitted demonstrates that WR-9, as presently in effect, and the settlement rate level in PR-2, pending before the Commission, do not provide a fair return on Georgia Power's wholesale service.

Georgia Power states that copies of the filing were served upon all of its jurisdictional customers and on the Georgia Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1243 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-179]

INDIANA & MICHIGAN ELECTRIC CO.

Filing of Interconnection Agreement

JANUARY 11, 1978.

Take notice that Indiana & Michigan Electric Co. (I&M) on January 5, 1978, tendered for filing an interconnection agreement between it and the city of Richmond, Ind. for and on behalf of its Municipal Light Department, Richmond Power & Light. I&M states that the interconnection agreement incorporates schedules providing for the followings: Firm power and energy, emergency service, short term power and energy, economy energy and tranmission service. I&M proposes an effective date of January 2, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1255 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ES78-17]

IOWA POWER & LIGHT CO.

Application

JANUARY 6, 1978.

Take notice that on December 22, 1977, Iowa Power & Light Co. (applicant) of Des Moines, Iowa, filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue on or before December 31, 1979, bank notes maturing not more than one year after date of issue and commercial paper notes maturing not more than nine months after the date of issue in principal amounts not exceeding $100,000,000, of which up to an amount not exceeding twenty-five percent (25%) of the company's gross revenues during the preceeding twelve (12) months of operations in the aggregate at any one time may be issued as commercial paper, and that the company may issue and sell commercial paper either directly to buyers, insofar as allowed by State law, or through established commercial paper dealers.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

The notes are to be issued from time to time to banking institutions or sold through a commercial paper dealer. Notes to banking institutions will be issued in accordance with various informal lines of credit agreements. The notes are to have maturities on demand with semiannual renewals, or specific maturities of not more than one year from their dates, and are to bear interest at the prevailing rate in effect at the time of issuance. Commercial paper will be issued as promissory notes either through an established commercial paper dealer or directly to buyers of the paper, as determined in the discretion of the company and as allowed by the laws of Iowa regulating the sale of securities. Commercial paper notes are to have maturities of not more than nine months from their dates and the interest rate will be dependent upon the terms of the notes and money market conditions at the time of issuance. The proceeds from the issuance of notes will be used as interim financing of the applicant's construction program.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 20, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with

the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1244 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. RI78-7]

LESLIE AND VERONICA ROBINSON

Petition for Special Relief

JANUARY 11, 1978.

Take notice that on November 7, 1977, Leslie and Veronica Robinson (Petitioners), 1000 Valley Forge Circle, King of Prussia, Pa. 19406, filed in Docket No. RI78-7 a petition for special relief pursuant to § 2.76 of the Commission's rules of practice and procedure.

Petitioners seek authorization to change a total rate of $1.00 per Mcf for the sale of gas currently being sold at 63.85 cents per Mcf from all the working interest in the Hewitt Well No. 2, Gilmer County, W. Va. The subject gas is currently being sold under small producer certificate issued in Docket No. CS71-82. Petitioners state that by letter dated July 29, 1975, it was advised by the pipeline purchaser that if the well was stimulated the total rate received would be increased to $1.00 per Mcf. A proposal was submitted and approved by the pipeline purchaser on March 17, 1976. In alleged reliance on such increase in price subject to receipt of invoices, Petitioners expended in excess of $19,400 for stimulation and reconnection of said well. Thereafter, Petitioners were advised that the total rate to be received had been reduced to 63.85 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commissioner's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1256 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. CP75-205]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition to Amend

JANUARY 6, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and the orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer or Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on December 27, 1977, Michigan Wisconsin Pipe Line Co. (Petitioner), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP75-205 a petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act on July 3, 1975 (54 FPC ——), as amended March 19, 1976 (55 FPC ——), and February 28, 1977 (57 FPC ——), so as to authorize a new delivery point where Petitioner can exchange gas with Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued July 3, 1975, Petitioner was authorized to deliver up to 10,000,000 Mcf of natural gas per day to Natural at a point in Wheeler County, Tex., in exchange for an equivalent volume from Natural at a redelivery point in Hansford County, Tex. The order of March 19, 1976, in the instant docket authorized Petitioner to deliver up to 2,000,000 Mcf of natural gas per day to Natural at a point in Beaver County, Okla., in exchange for an equivalent volume from Natural at a redelivery point in Hansford County, Tex. Petitioner was authorized to deliver up to 500 Mcf of natural gas per day to Natural at a point in Beaver County, Okla., in exchange for an equivalent volume from Natural at a redelivery point in Hansford County, Tex., pursuant to the order issued February 28, 1977.

Petitioner states that Natural has obtained a commitment of gas reserves from the Blackburn "A" No. 1 Well in close proximity to the facilities of Petitioner in Caddo County, Okla., and proposes herein to deliver such gas to Petitioner in Sec. 2, T. 10 N., R. 10 W., Caddo County, Okla., in exchange for delivery of an equivalent volume of gas by Petitioner to Natural at the presently authorized existing point of redelivery in Hansford County, Tex., less compressor fuel utilized by Petitioner.

It is stated that Natural proposes to deliver up to 1,000 Mcf of gas per day to Petitioner through existing facilities in Caddo County. It is further stated that in order to account for compressor fuel used by Petitioner, the daily quantity of exchange gas redelivered by Petitioner to Natural attributable to the Blackburn Well would be reduced by 1.25 percent and there is no compensation for the exchange as the transaction is on a straight gas-for-gas basis.

Petitioner states that the new point of exchange will facilitate an increase in gas supply to Natural without the construction of additional facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1245 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-167]

MISSISSIPPI POWER & LIGHT CO.

Cancellation

JANUARY 6, 1978.

Take notice that on December 30, 1977, Mississippi Power & Light Co. (MP&L) tendered for filing a notice of cancellation of its Rate Schedule FPC No. 166, which provides for sales of electric power to Coahoma Electric Power Association at Darling, Miss. MP&L states that the load has been transferred to the Company's Lula Substation.

MP&L requests that the cancellation be made effective as of December 9, 1977, the date of the load transfer, in order to obviate the necessity that the Association pay certain minimum charges included in its rate schedule after that date. MP&L therefore requests waiver of the Commission's notice requirements.

According to MP&L copies of this filing have been sent to Coahoma Electric Power Association, Lyon, Miss.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
SECRETARY.

[FR Doc. 78—1246 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. CP66-237]

NATURAL GAS PIPELINE CO.

Extending Procedural Dates

JANUARY 5, 1978.

On December 30, 1977, Northern Illinois Gas Co. (NI-Gas) filed a motion to extend the procedural dates established by Commission Order issued December 19, 1977, in the above referenced docket, and a notice of intent to file for rehearing of the December 19 Order. The motion states that NI-Gas will file a petition for rehearing no later than January 18, 1978.

Upon consideration, notice is hereby given that the procedural dates established by the December 19, 1977, Order are extended as follows:

March 24, 1978: Filing and service on all parties, the Presiding Administrative Law Judge, and Commission Staff of the direct case of Natural Gas Pipeline Company of America (Natural), including testimony on the issue raised by the December 19, 1977, Order.
March 31, 1978: Filing of testimony and exhibits comprising the case-in-chief of supporting intervenors.
April 17, 1978: Filing of testimony of opposing intervenors and Staff Counsel.
April 28, 1978: Rebuttal testimony of Natural and supporting intervenors.
May 8, 1978: Prehearing conference.

Any further procedural dates will be established by the Presiding Administrative Law Judge.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1247 Filed 1-16-78; 8:45 am]

[6750-02]

[Docket No. ER78-178]

OHIO POWER CO.

Amendment to Filing of Changes in Rates and Charges

JANUARY 11, 1978.

Take notice that American Electric Power Service Corp. (AEP) on January 3, 1978 tendered for filing on behalf of its affilate, Ohio Power Co. (Ohio Power), an amendment to Modification No. 6 dated December 1, 1976 to the Facilities and Operating Agreement dated May 1, 1967 between Ohio Power Co. and The Dayton Power and Light Co. (Dayton) designated Ohio's Rate Schedule FPC No. 36. Ohio Power states that Modification No. 6 was filed with the Commission on May 18, 1977.

Ohio Power further states that in the original filing, Applicant had requested inadvertently that Modification No. 6 become effective July 1, 1977. According to Ohio Power the amendment to Modification No. 6 is intended by the parties to correct said inadvertence by requesting the Modification become effective January 1, 1977. Ohio Power also requests that the Commission waive its 30-day notice requirement.

Ohio Power indicates that copies of this amendment were served upon Dayton and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of the amended application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1257 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-163]

PACIFIC GAS AND ELECTRIC CO.

Proposed Tariff Change

JANUARY 11, 1978.

Take notice that on December 27, 1977, Pacific Gas and Electric Co. (PG&E) tendered for filing a notice of change in contract provisions regarding rates for certain off-peak energy sales to the State of California (State) under Article 20 of its Rate Schedule FPC No. 36. The present rate is to remain in effect until January 1, 1983.

PG&E states that the proposed rates are designed to permit the company to recover its cost of providing off-peak service to the State pursuant to the contract during the five-year period commencing January 1, 1983.

PG&E proposes an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

PG&E further states that copies of this filing were served upon the State of California Department of Water Resources, the California Public Utilities Commission, Southern California Edison Co. and San Diego Gas and Electric Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file

with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-1258 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-159]

PACIFIC POWER & LIGHT CO.

Initial Rate Filing

JANUARY 6, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on December 27, 1977 tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a new rate schedule for provisional power sales to San Diego Gas & Electric Co., Pacific Gas and Electric Co., and Southern California Edison Co.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective on November 17, 1977, which it claims is the date of commencement of service.

Pacific states that copies of this filing are being supplied to the purchasers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1248 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-165]

PHILADELPHIA ELECTRIC CO.

Proposed Tariff Change

JANUARY 6, 1978.

Take notice that Philadelphia Electric Co. (Philadelphia) on December 30, 1977, tendered for filing proposed changes in its FERC electric service tariff applicable for service to the Borough of Lansdale. Philadelphia states that the proposed changes would increase revenues from jurisdictional sales and service by $704,100 based on the twelve-month period ending September 30, 1978. Philadelphia proposes an effective date of February 14, 1978.

Philadelphia further states that copies of this filing were served upon the Borough of Lansdale and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1249 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket ER78-164]

PHILADELPHIA ELECTRIC CO.

Tariff Change

JANUARY 11, 1978.

Take notice that Philadelphia Electric Co. (PE) on December 30, 1977, tendered for filing proposed changes to the tripartite agreement between PE, the Susquehana Electric Co. (Susquehana), and Conowingo Power Co. (Conowingo), dated May 1, 1972, for supply to Conowingo on file with the Commission as rate schedule FPC No. 36 of Philadelphia Electric Co. and rate schedule No. 2 of the Susquehana Electric Co. PE states that the proposed changes would become effective on February 14, 1978, and are designed to increase revenues by $2,195,800 for period II operations.

According to PE, copies of this filing have been supplied to Conowingo and the Public Service Commission of Maryland.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1259 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-51]

PUBLIC SERVICE ELECTRIC & GAS CO.

Filing of Electric Service Agreement

JANUARY 11, 1978.

Take notice that Public Service Electric & Gas Co. of New Jersey (Company) on December 13, 1977, tendered for filing an ageement for electric service to the Borough of Park Ridge, N.J.

Company indicates that the rate for service is a standard rate of the Company designated rate schedule FPC No. 60 and 61 which was accepted for filing by the Commission effective April 1, 1977, in Docket No. ER77-219. Company indicates that it has no other rate for similar service.

According to Company, copies of the filing were served upon the Borough of Park Ridge, N.J., the New Jersey Board of Public Utilities, and Rockland Electric Co.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before January 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1260 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-171]

SAN DIEGO GAS & ELECTRIC CO.

Proposed Tariff Change

JANUARY 11, 1978.

Take notice that on January 3, 1978, San Diego Gas & Electric Co. (SDG&E) tendered for filing a notice

of change in contract provisions regarding rates for certain off-peak energy sales to the State of California (State) under articles 20 and 21 of its rate schedule FPC No. 18. The proposed effective date for the changed rate is January 1, 1983, and waiver of the Commission's notice requirements is therefore requested.

SDG&E states that the proposed rates are designed to permit the company to recover its cost of providing off-peak energy to the State pursuant to the contract commencing January 1, 1983.

According to SDG&E, copies of the filing were served upon the State of California Department of Water Resources, the California Public Utilities Commission, Southern California Edison Co., and Pacific Gas & Electric Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1261 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-168]

SOUTHERN CALIFORNIA EDISON CO.

Proposed Tariff Change

JANUARY 11, 1978.

Take notice that Southern California Edison Co. (Edison) on December 29, 1977, tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreement with the City of Pasadena as embodied in rate schedule FPC No. 88. Edison indicates that the new rate for these services, which is proposed to be effective in January 1, 1978, is $800 per month, and that is an increase of $60 per month over that for the year 1977. Edison states that said filing is in accordance with terms of the agreement stating that the sum for these services will be redetermined prior to January 1 of each year based on Edison's budgeted amounts of money for load dispatching and production section function expenses for that year. Edison failed to file thirty days prior to the date on which the new rate is to take effect and therefore requests waiver of the normal notice requirements to allow for effective date of January 1, 1978.

According to Edison copies of this filing were served upon the City of Pasadena and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1262 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-170]

SOUTHERN CALIFORNIA EDISON CO.

Intent To Change Tariff

JANUARY 11, 1978.

Take notice that on December 30, 1977, Southern California Edision Co. (SCE) tendered for filing a notice that SCE intends to change effective January 1, 1983, the rate at which SCE offers off-peak energy to the State of California Department of Water Resources (DWR) under section 20 of the contract between State of California and California companies for the sale, interchange, and extra high voltage transmission of electric capacity and energy, dated August 1, 1967 (EHV contract). SCE states that for SCE said contract is embodied in rate schedule FPC No. 38. SCE proposes that the rate change, in accordance with the contract and applicable section, will not be effective until January 1, 1983. SCE contends that the current rate of $0.003 (3 mills) per kilowatt-hour is not economically justifiable and would, if allowed to prevail in accordance with interpretations of the EHV contract, for the entire five year period of 1983-1988 place an undue burden on SCE's other ratepayers.

SCE further contends that Commission regulations under 18 CFR provide no mechanism for filing of a rate five years in advance of its effective date. Accordingly, SCE in its filing requests staff suggestions pursuant to 18 CFR 35.6.

SCE states that its is uncertain as to whether sales under section 20 of the EHV contract are within the jurisdiction of the California Public Utilities Commission or within the jurisdiction of the Federal Energy Regulatory Commission. Therefore, SCE requests that this Commission determine the extent, if any, to which sales under section 20 of the EHV contract are within its jurisdiction.

According to SCE, copies of this filing were served upon the California companies, DWR and the California Public Utilities Commission.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1263 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-169]

SOUTHERN CALIFORNIA EDISON

Proposed Tariff Change

JANUARY 6, 1978.

Take notice that Southern California Edison Co. (Edison) on December 29, 1977, tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreement with San Diego Gas & Electric Co. as embodied in rate schedule FPC No. 86. Edison indicates that the new rate for these services effective on January 1, 1978, is $800 per month and that this is an increase of $60 per month over that for the year 1977. Edison states that said filing is in accordance with terms of the agreement stating that the sum for these services will be redetermined prior to January 1 of each year based on Edison's budgeted amounts of money for load dispatching and production section function expenses for that year. Edison failed to file thirty days prior to the date on which the new rate is to

take effect and therefore requests waiver of the normal notice requirements to allow for an effective date of January 1, 1978.

According to Edison, copies of this filing were served upon San Diego Gas & Electric Co. and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and Drocedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1250 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. CP78-26]

UNITED GAS PIPE LINE CO.

Amendment

JANUARY 6, 1978.

Take notice that on December 23, 1977, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-26 an amendment to its application in said docket for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to provide that the transportation of volumes of gas by United for the account of Marion Corp. (Marion) would be the lesser quantity of 50 percent of the daily quantity of gas delivered by Marion to United for purchase by United, or the daily quantity by which Mobile Gas Service Co. (Mobile) curtails Marion at its refinery located near Mobile, Ala., all as more fully set forth in the amendment on file with the Commission and open to public inspection.

The application in this docket requests authorization for United to transport up to 1,500 Mcf of gas per day for the account of Marion. United proposes to deliver said quantity of gas, less 1.5 percent for fuel and unaccounted for gas, to Mobile for the account of Marion. Mobile, in turn would deliver said quantity of gas to Marion for use in its refinery near Mobile, Ala., it is said.

It is indicated that Marion has developed a supply of gas in the Gwinville field, Jefferson Davis County, Miss. Further, it is stated that pursuant to a gas purchase contract, dated June 9, 1977, as amended by amendatory agreement, dated December 6, 1977, United has the right to purchase all of the Gwinville field gas Marion has available; but Marion has the right to reserve for its own use a quantity of gas each day not to exceed the lesser of 50 percent of the quantity of gas delivered on such day by Marion to United at the delivery point provided thereunder or the quantity of gas by which Mobile is so curtailing Marion on each day; *Provided, however,* That the quantity of gas so reserved by Marion on any day shall not exceed 1,500 Mcf.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1251 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. EL78-2]

VIRGINIA ELECTRIC & POWER CO.

Application To Sell Substation

JANUARY 11, 1978.

Take notice that Virginia Electric & Power Co. (VEPCO) on January 3, 1978, tendered for filing, pursuant to section 203(a) of the Federal Power Act, an application for approval of the sale by VEPCO to Shenandoah Valley Electric Cooperative (SVEC) of the 7,500/12,500 kVA, 115-24.9 kV distribution substation facilities at North River delivery point.

VEPCO indicates that the consideration for the proposed sale is $67,766, which is the reproduction cost new, depreciated. VEPCO further indicates that the substation facilities have been and are being used by VEPCO to distribute power and energy to SVEC and will continue to be used by SVEC for the same purpose, and also for distribution of power within the SVEC system.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.18 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-1264 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket Nos. G-11682, et al.]

TEXACO INC., ET AL.

Applications for Certificates, Abandonment of Service, and Petitions to Amend Certificates[1]

JANUARY 11, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and sub-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

ject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
SECRETARY.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-11682 D 12/22/77	Texaco Inc., P.O. Box 3109, Midland, Tex. 79702.	Northern Natural Gas Co., Barlow Field, Ochiltree County, Tex.	Leases expired or have been released, and plugged and abandoned.	
G-16139 D 12/19/77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Transwestern Pipeline Co., Section 119, Block 41, H&TC, Survey, Hemphill County, Tex.	Per letter agreement between Transwestern and Gulf, dated October 13, 1977.	
CI65-145 D 12/22/77	do	Northern Natural Gas Co., Texas Panhandle Field, Ochiltree County, Tex.	Leases expired or have been released, and nonproduction.	
CI69-826 D 12/22/77	Texaco Inc.	Northern Natural Gas Co., Share Field, Hansford County, Tex.	Leases expired or have been released, and plugged and abandoned.	
CI77-202 C 12/19/77	Gulf Oil Corp.	Michigan Wisconsin Pipe Line Co., certain acreage located in the Mayfield S.W. Field, Beckham County, Okla.	(1)	14.65
CI78-245 G-5392 CI65-689 CI67-1684 CI68-942 B 12/20/77	WEVA Oil Corp., 608 Main Street, Hingham, Mass. 02043.	Consolidated Gas Supply Corp., Wirt, Roane and Calhoun Counties, W. Va.	(2)	
CI78-246 A 12/20/77	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corp., Lighthouse Point Field, Offshore, Iberia and/or Vermilion Parishes, La.	(1)	15.025
CI78-247 B 12/20/77	Glen N. Rupe, P.O. Box 2273, 434 Ohio, Wichita, Kans. 67201.	Kansas-Nebraska Natural Gas Co., Inc., East McClanahan, Edwards, Kans.	Constant losses 1974-1977. Plugged and leases expired.	
CI78-248 B 12/19/77	W. W. Buchanan, Petroleum Commerce Bldg., Suite 444, San Antonio, Tex. 78205.	Northern Natural Gas, Sprayberry Trend, Reagan County, Tex.	Production reached economic limits.	
CI78-249 B 12/19/77	Horizon Oil & Gas Co. of Texas, Hartford Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Ellis Ranch Cleveland Field, Ochiltree County, Tex.	Depleted and lease expired.	
CI78-250 A 12/19/77	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125.	Southern Natural Gas Co., S.L. 1230 Well No. 1 in the north half of Breton Sound Block 36, Plaquemines Parish, La.	(1)	15.025
CI78-251 A 12/22/77	Sohio Petroleum Co., 50 Penn Place, Suite 1100, Oklahoma City, Okla. 73118.	Cities Service Gas Co., Eitzmann Well No. 1 located in Section 6, T28N, R3E, Kay County, Okla., but only from the Redfork Formation found between the depths of 3,237 and 3,370 feet in said well.	(3)	14.65
CI78-252 A 12/22/77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Block 111, High Island Area, Offshore, Tex.	(1)	14.65
CI78-253 A 12/23/77	Diamond Shamrock Corp., (Successor to The Shamrock Oil & Gas Corp.), P.O. Box 631, Amarillo, Tex. 79173.	Transwestern Pipeline Co., certain acreage in Lipscomb County, Tex.	(1)	14.65
CI78-254 A 12/23/77	Ashland Exploration, Inc. (Successor in Interest to Ashland Oil, Inc.), P.O. Box 1503, Houston, Tex. 77001.	Western Transmission Corp., Ashland-Federal No. 13-22 Well located in Section 22-T16N-R91W, Carbon County, Wyo.	(1)	15.025
CI78-255 A 12/23/77	Chevron U.S.A. Inc., 1111 Tulane Avenue, New Orleans, La. 70112	United Gas Pipe Line Co., Cris "I" (Sand) in the RA SU A Continental Land & Fur Co., No. 21-1 Well Unit in the West Deer Island Field, Terrebonne Parish, La.	(1)	15.025
CI78-256 A 12/23/77	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	United Gas Pipe Line Co., certain acreage in Block 307 (E/2), Eugene Island South Addition Area, Offshore, La.	(4)	15.025
CI78-257 G-19024 G-19926 B 12/27/77	Rex Monahan, Box 1231, Sterling, Colo. 80751.	Kansas-Nebraska Natural Gas Co., Inc., Yoyo, Logan County, Colo.	Depleted.	
CI78-258 A 12/27/77	Napeco, Inc., 122 South Michigan Avenue, Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Bowen No. B-1 Well, Panola County, Tex.	(1)	14.65
CI78-260 B 12/27/77	VanHattem Gas & Oil Co. (previously E. C. Wedell and Hydrocarbon Facilities, Inc.) 111 West Douglas, Wichita, Kans. 67202.	Northern Natural Gas Co., Northern Natural Gas Co's meter site (E.C. Wedell meter station) in the SW/4 of Section 22-T19S-R13W, Barton County, Kans.	Uneconomical and depleted.	

[1] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.
[2] Applicant is requesting abandonment only with respect to sands below the Pocano Formation which has not been exploited and/or developed, in order to drill new wells necessary to explore the deep formation; and any gas so recovered in its subject formation will be committed to interstate sales.
[3] Applicant is filing under Gas Purchase Contract dated Nov. 16, 1977.
[4] Applicant is filing under Contract with United dated Oct. 1, 1977.

Filing code:
A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc. 78-1142 Filed 1-16-78; 8:45 am]

[67612-01]

[Supplement No. 6]

CANADA-U.S.A. FM BROADCASTING AGREEMENT OF 1947

Amendment of Table A

JANUARY 5, 1978.

Supplement No. 6 to the Table of Canadian FM Broadcasting Channel Assignments and Allocations within 250 miles of the Canada-U.S.A. Border, dated December 27, 1977, as revised April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. FM Broadcasting Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

FM ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,FREQ DEC 27, 1977 PAGE
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

LONDON	ON	248 B	42-59-02.0	USA	771020
		97.5	81-14-13.0	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.	

[FR Doc. 70-1102 Filed 1-16-78; 8:45 am]

[6712-01]

[Supplement No. 1]

MEXICO-U.S.A. TELEVISION AGREEMENT OF 1952

Amendment of Table A

JANUARY 5, 1978.

Supplement No. 1 to the Table of Mexican Television Channel Assignments and Allocations within 250 miles of the Mexico-U.S.A. Border, dated December 27, 1977, as revised April 12, 1977.

Pursuant to exchange of correspondence between the Department of frequencies of Mexico and the Federal Communications Commission, Table A of the Mexico-U.S.A. Television Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Mexican Department of Frequencies.

Copies of the list may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,CHAN DEC 27, 1977 PAGE 1
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

CO	REYNOSA		TA	26-05-50.0	17 Z	771103
	ZONE 3	**USA BORDER**		98-16-42.0		

[FR Doc. 78-1101 Filed 1-16-78; 8:45 am]

[6712-01]

[Supplement No. 8]

CANADIAN TELEVISION CHANNEL ASSIGNMENTS AND ALLOCATION

Amendment of Table

JANUARY 5, 1978.

Amendment of table A of the Canada-United States of American Television Agreement of 1952 (TIAS-2594).

Supplement No. 8 to the table of Canadian television channel assignments and allocations within 250 miles of the Canada-United States of America border, dated December 27, 1977, as revised to April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, table A of the Canada-United States of America television agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic table of allocations may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,CHAN DEC 27, 1977 PAGE 1
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

CBCATV01	CO LIC	ETZIKOM	AB	49-33-59.0	12 +	66(KW)	482(FT)		771216
		ZONE 2	**USA BORDER**	111-07-52.0	DA	HOR			
CHEKTV	CO APP	VICTORIA	BC	48-46-28.0	06 Z	100(KW)	1628(FT)	CHEK TV LTD	771103
		ZONE 2	**USA BORDER**	123-10-10.0		HOR	CANADIAN PROPOSAL		
CBWGT02	CO LIC	FAIRFORD	MB	51-42-50.0	07 -	4(KW)	308(FT)		771103
		ZONE 2	**USA BORDER**	98-34-50.0	DA	HOR			
	CO	LAC DU BONNET	MB	50-18-00.0	05 -				771117
		ZONE 2	**USA BORDER**	96-04-00.0					
CBWAT	CO LIC	KENORA	ON	49-46-13.0	08 Z	16(KW)	433(FT)	CANADIAN BCTING CORP	771216
		ZONE 2	**USA BORDER**	94-30-13.0	DA	HOR			
CBWDT01	CO LIC	SIOUX LOOKOUT	ON	50-04-31.0	12 +	72(KW)	664(FT)		771216
		ZONE 2	**USA BORDER**	92-01-40.0	DA	HOR			
NEW	CO	TORONTO	ON	43-38-33.0	45 Z	1381(KW)	1645(FT)		771117
		ZONE 1	**USA BORDER**	79-23-15.0		BT HOR			
	CO	BAIE COMEAU	QU	49-13-00.0	07 -				771103
		ZONE 2	**USA BORDER**	68-09-00.0					
	CO	GRANDE VALLES	QU	49-13-00.0	06 -				771103
		ZONE 2	**USA BORDER**	65-08-00.0					
NEW	CO	HULL	QU	43-30-11.0	40 Z	1022(KW)	1184(FT)	RADIO NORD, INC.	771205
		ZONE 1		75-51-02.0	DA	BT HOR	CANADIAN PROPOSAL		
NEW	CO	HULL	QU	43-30-11.0	40 Z	1026(KW)	1157(FT)	TELE-METROPOLE, INC.	771205
		ZONE 1		75-51-02.0	DA	BT HOR	CANADIAN PROPOSAL		
	CO	MURDOCHVILLE	QU	48-58-00.0	10 -				771103
		ZONE 2	**USA BORDER**	65-31-00.0					
CBKFT	CO LIC	REGINA	SA	50-28-58.0	13 -	319(KW)	589(FT)		771103
		ZONE 2	**USA BORDER**	104-30-20.0	DA	HOR			
CICCTV	CO LIC	YORKTON	SA	51-12-33.0	10 Z	56(KW)	0444(FT)		771216
		ZONE 2	**USA BORDER**	102-43-59.0		HOR			

[FR Doc. 78-1271 Filed 1-16-78; 8:45 am]

[6712-01]

[Report No. I-425]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

JANUARY 9, 1978.

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, regulations, and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

TX—150-DSE-P-78 New World Cable TV, Rockdale, Tex. Authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°39'54"N., Long. 97°12'03" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MN—201-DSE-P/L-78 Fosston Cable TV, Fosston, Minn. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 47°34'14"N., Long. 95°42'28"W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

NB—202-DSE-P/L-78 Beatrice Cable TV Co., Beatrice, Nebr. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°14'37"N. Long. 96°43'21"W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

MT—203-DSE-P/L-78 Community Tele-Communications, Inc., Butte, Mont. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 45°59'58" N., Long. 112°31'55" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

UT—205-DSE-P/L-78 Community Tele-Communications, Inc., Ogden, Utah. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°13'46" N., Long. 111°56'41" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

CA—206-DSE-P-78 Northern California Educational Television Association, Inc., Redding, Calif. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°34'30" N., Long. 122°21'20" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

TX—207-DSE-P/L-78 Williamson County Cablevision Co., Georgetown, Tex. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°38'35" N., Long. 97°40'13" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MA—208-DSE-P-78 WGBH Educational Foundation, Needham, Mass. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 42°18'35" N., Long. 71°14'16" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

OK—209-DSE-P/L-78 Com-West, Inc., duncan, Okla. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°32'31" N., Long. 97°56'54" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

UT—210-DSE-P/L-78 Community Television of Utah, Salt Lake City, Utah. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°43'25" N., Long. 111°51'17" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

NY—211-DSE-P/L-78 Petra Cablevision Corp., Central Islip, N.Y. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°46'05" N., Long. 73°12'20" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

KS—212-DSE-P/L-78 Mid American Cable Systems of Olathe, Inc., Olathe, Kans. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°55'10" N., Long. 94°47'47" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

28-CSS-MP-78 Comsat General Corp., RCA Global Communications, Inc., Western Union International, Inc., and ITT World Communications, Inc. Application for modification of MARISAT space station construction permits in order to make available to Kokusai Denshin Denwa commercial space segment capacity in MARISAT satellites over the Indian and Pacific Oceans.

[FR Doc. 78-1273 Filed 1-16-78; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 71—"VHF Automated Radiotelephone Systems." Notice of 7th meeting—Wednesday, February 1, 1978, 10 a.m. (full day meeting), Conference Room A-110, 1229 20th Street NW., Washington, D.C.

AGENDA

1. Call to order; Chairman's report.
2. Introduction of attendees; adoption of agenda.
3. Acceptance of SC-71 summary record.
4. Morning session (10 a.m.-11:45 a.m.). Afternoon session (1:45 p.m.-3:45 p.m.).
(a) Report from U.S. representatives to IWP 5 second meeting in Geneva, January 1978.
(b) Discussion of nonpublic correspondence application for automated VHF/UHF communications.
(c) Preparation of agenda for further meeting on interface with public telephone network.
(d) Discussion of program for committee's action and schedule for accomplishing objective.
5. Other business.
6. Establishment of next meeting date.

John J. Renner, chairman, Advanced Technology Systems, Inc., 2425 Wilson Boulevard, Arlington, Va. 22201, phone 703-525-2664.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat, phone 202-632-6490.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-1272 Filed 1-16-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

Correction

The notice of the filing of "Agreements Nos. 10140-5 and 10140-6" published January 3, 1978 (43 FR 35) is corrected to read "Agreements Nos. 10140-7 and 10140-6." That notice is further corrected by inserting the designation "Agreement No. 10140-7" in all instances where "Agreement No. 10140-5" now appears. The notice is correct in all other respects. Time for comments remains unchanged.

By order of the Federal Maritime Commission.

Dated: January 12, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-1294 Filed 1-16-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1440]

SURFACEAIR MULTI-MODAL CORP.

Order of Revocation

On January 3, 1978, Surfaceair Multi-Modal Corp. voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1440 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1440, issued to Surfaceair Multi-Modal Corp., be and is hereby revoked effective January 3, 1978, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Surfaceair Multi-Modal Corp.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-1293 Filed 1-16-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

MATERIAL SCHEDULED TO BE DISCUSSED AT OPEN BOARD MEETINGS

Procedure for Processing Requests

For the information of the public, the Secretary of the Board of Governors of the Federal Reserve System has outlined the following procedures that are in effect at the Board for the processing of requests for copies of memoranda and other material scheduled to be discussed at meetings of the Board that are open to public observation.

As required by law, the Secretary of the Board regularly makes public announcement of the agenda for each open meeting at least one week in advance of the meeting. Members of the public who wish to request copies of materials scheduled to be discussed at such a meeting should make their requests to the Secretary as far in advance of the meeting as possible in accordance with the Board's rules regarding availability of information, 12 CFR Part 261. In any case, the request should be received by the close of business two working days prior to the meeting.

Because such materials may be helpful to the requesting party if they are available for use at the open meeting to which they relate, the Secretary gives such requests priority treatment. Requested materials are made available by the time of the meeting unless there is insufficient opportunity to process the request or a determination is made to invoke an applicable exemption from disclosure.

Requests for materials to be discussed in open meetings should be in writing and addressed to the Secretary. They may be presented during business hours at the Board's Freedom of Information Office, Room 1228, Federal Reserve Building, 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, January 12, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-1269 Filed 1-16-78; 8:45 am]

[6210-01]

UNION BANCORPORATION, INC.

Formation of Bank Holding Company

Union Bancorporation, Inc., Oklahoma City, Okla., has applied for the Board's approval under subsection 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 percent of the voting shares of Union Bank & Trust Co., Oklahoma City, Okla. The factors that are considered in acting on the application are set forth in subsection 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 8, 1978.

Board of Governors of the Federal Reserve System, January 11, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-1270 Filed 1-16-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

CRIME AND DELINQUENCY REVIEW COMMITTEE

Changed Meeting Information

In FR Doc. 77-36292, appearing on page 63816 in the issue of Tuesday, December 20, 1977, the location of the January 18-20 meeting of the Crime and Delinquency Review Committee has been changed to the Gallery Room of the Dupont Plaza Hotel, Connecticut and Massachusetts Avenue NW., Washington, D.C. All other information remains as published December 20.

Dated: January 11, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-1204 Filed 1-16-78; 8:45 am]

[4110-88]

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Changed Meeting Information

Notice of the January 23-25 meeting was provided in FR Doc. 77-36292 appearing at page 63816 in the issue of Tuesday, December 20, 1977, and an amended notice appeared in FR Doc. 77-36974 on page 65267 in the issue of Friday, December 30, 1977, to announce that the policy session on January 23 from 9:30 a.m. to adjournment, which is open to the public, would be held in Conference Room F of the Parklawn Building, and that the grant review sessions on January 24 and 25, which are not open to the public, would be held in Conference Room 14-105, Parklawn Building, as previously announced.

The time for the policy session has now been changed to 9:30 a.m. to 3:30 p.m. on January 23 in conference Room F. The grant review session will begin in Conference Room 14-105 on January 23 immediately following the policy session.

Dated: January 11, 1978.

CAROLYN T. EVANS,
Committee Management Office, Alochol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-1203 Filed 1-16-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77D-0281]

BRAZIL NUTS, PISTACHIO NUTS, AND OTHER FOODS AND FEEDS

Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is announcing the availability of revised administrative guidelines pertaining to the analytical methods used to confirm the presence of aflatoxin in Brazil nuts, pistachio nuts, and other foods and feeds.

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

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: The previous guidelines for aflatoxin in Brazil nuts, pistachio nuts, and other foods and feeds were established in 1973. Since that time, as required by the guidelines, confirmatory analyses for aflatoxin have been performed using two procedures, one consisting of a chemical derivation of aflatoxin, the other a lengthy chicken embryo bioassay for aflatoxin B_1 toxicity. The chicken embryo bioassay confirmation takes a little more than 3 calendar weeks to perform, and regulatory action must await the bioassay results. The need for quick and reliable analytical procedures is readily recognized.

The Food and Drug Administration has reviewed data since 1964, which show that confirmation of aflatoxin B_1 by the chemical derivation has, without exception, been corroborated by the chicken embryo bioassay. Thus, the chemical test can stand alone as the confirmatory test for aflatoxin for Brazil nuts, pistachio nuts, coconut meal, copra, corn and corn products, and cottonseed meal, the products covered by the FDA review.

Accordingly, the following revisions in the Administrative Guidelines (Chapter 12—Brazil nuts and Pistachio nuts; Chapter 20—Food and Feed) have been made:

1. *Brazil nuts, adulteration—aflatoxin.*—This revision updates references to analytical methodology used for the isolation and confirmation of aflatoxin in Brazil nuts and deletes the requirement for the chicken embryo bioassay.

2. *Pistachio nuts, adulteration—aflatoxin.*—This revision updates references to analytical methodology used for the isolation and confirmation of aflatoxins in pistachio nuts and deletes the requirement for the chicken embryo bioassay.

3. *Foods and Feeds, adulteration—aflatoxin.*—This revision updates references to analytical methodology used for the isolation and confirmation of aflatoxins for specific commodities of foods and feeds and eliminates the requirement for the chicken embryo bioassay for aflatoxin B_1 toxicity in samples of corn, corn meal, coconut meal, copra, and cottonseed meal.

The level of aflatoxin permitted in Brazil nuts, pistachio nuts, and other foods and feeds covered by these guidelines has not changed. The new guidelines exclude certain commodities from the requirement that the chicken embryo bioassay method be used before regulatory action can be taken on sample lots found violative.

REFERENCES

A copy of each of the following references is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between 9 a.m. and 4 p.m. Monday through Friday:

1. FDA Internal Memorandum of June 11, 1976 of the Division of Toxicology, Bureau of Foods, Food and Drug Administration.

2. FDA Internal Memorandum of June 2, 1976 from the Division of Chemistry and Physics to the Division of Regulatory Guidance, Bureau of Foods, Food and Drug Administration.

Copies of these revised guidelines are available for public examination at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies may be made in writing to that office.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding these action levels. Received comments may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: December 15, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-1024 Filed 1-16-78; 8:45 am]

[4110-03]

[Docket No. 77D-0303]

CHOCOLATE AND CHOCOLATE LIQUOR

Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is announcing the availability of revised administrative guidelines pertaining to defect action levels for chocolate and chocolate liquor.

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

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Administrative guidelines represent the maximum levels for natural or unavoidable defects in foods produced under good manufacturing practices and are the levels used for recommending legal action. As field inspection activities identify changing problems and as relevant technology changes, the various guidelines are updated to reflect current policy as it relates to specific products.

The following administrative guideline revisions have been made for chocolate and chocolate liquor, adulteration-insect and rodent filth:

1. The limit for microscopic insect filth in a single 100-gram subsample has been lowered from 100 to 90 fragments.

2. The limit for rodent filth in the average of six or more 100-gram subsamples has been lowered from 1.5 rodent hairs to 1.0 rodent hair.

Copies of the revised guidelines are available for public examination at the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies may be made in writing to that office.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding these action levels. Received comments may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: January 9, 1978.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 78-1025 Filed 1-16-78; 8:45 am]

[4110-03]

[Docket No. 77F-0374]

DeLAVAL SEPARATOR CO.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The DeLaval Separator Co. has filed a petition proposing that the food additive regulations be amended to provide for the use of sodium lauryl sulfate as a wetting agent in the partition of high and low melting fractions of crude vegetable oils and animal fats.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street

SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6A3170) has been filed by DeLaval Separator Co., 350 Dutchess Turnpike, Poughkeepsie, N.Y. 12602, proposing that the food additive regulations be amended to provide for the use of sodium lauryl sulfate as a wetting agent in the partition of high and low melting fractions of crude vegetable oils and animal fats.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Land, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 6, 1978.

HOWARD R. ROBERTS,
Acting Director of Bureau of Foods.

[FR Doc. 78-1022 Filed 1-16-78; 8:45 am]

[4110-03]

IMPORTATION OF DRY MILK PRODUCTS

Memorandum of Understanding With the Swedish Government Control Board of Dairy Products and Eggs

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Swedish Government Control Board of Dairy Products and Eggs. The purpose of the understanding is to set forth cooperative working arrangements to facilitate, simplify, and expedite the importation of dry milk products into the United States.

DATE: The agreement became effective November 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING BETWEEN THE FOOD AND DRUG ADMINISTRATION, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND THE SWEDISH GOVERNMENT CONTROL BOARD OF DAIRY PRODUCTS AND EGGS, KMA, SWEDEN EXPORTING DRY MILK PRODUCTS TO THE UNITED STATES OF AMERICA

OBJECTIVES

It is the aim of the parties to this Memorandum of Understanding to facilitate, simplify and expedite the importation of dry milk products into the United States of America; to improve compliance with regulations enforced by the Food and Drug Administration by assuring that contaminated or underprocessed dry milk products will not be exported to the United States; to minimize, and in the future, diminish the risk of lots of dry milk products being denied entry because of failure to comply with FDA regulations; and to eventually reduce the need for extensive sampling of dry milk products from Sweden to assure that they meet the requirements of the laws and regulations enforced by the Food and Drug Administration.

DEFINITIONS

For purposes of this Memorandum, both parties agree to the definitions following:

Dry Milk Products.—Dry Milk products include non-fat dry milk, whole milk powder, dried whey, buttermilk powder, casein and caseinates.

Lot.—A lot is a quantity of dry milk product produced during a discrete period of time, not exceeding one day's production by one manufacturer, in one continuous process using a single processing line, packaged in identical containers identified by a code or mark traceable to the manufacturer.

Somonella-negative.—The absence of *Salmonella* (including *S. arizonae*) in 30/25 gram portions each taken from a single lot of dry milk product and reconstituted individually or composited and tested by procedures outlined in the Bacteriological Analytical Manual (BAM), Fourth Edition; or in Methods of Analysis—AOAC, Twelfth Edition, except using 30/25 gram portions instead of the 100 gram portions stated in BAM and AOAC.

Phosphatase negative.—Each of the 30 reconstituted 25 gram portions or composited units of dry milk product contains less than 1 microgram of phenol per milliliter of milk when tested by the Scharer Rapid Method indicating no underpasteurization or contamination with raw milk.

Penicillin negative.—Each of the 30/25 gram portions individually reconstituted or composited before reconstituting, contains less than .01 of an International Unit of penicillin G per milliliter of milk when tested by the *S. lutea* cylinder method, or by the *B. stearothermophilus*, variety calidolactis, disk assay method normally used in Sweden for this purpose.

OBLIGATIONS OF PARTICIPANTS

The Swedish Government Control Board of Dairy Products and Eggs, KMA, SWEDEN

1. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to inspect each lot of dry milk product produced in Sweden and offered for certification and exportation to the United States of America to assure that the lot is *Salmonella* negative, phosphatase negative, and penicillin negative.

2. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to issue a separate certificate for only those lots which meet the criteria of 1., above. Any lot offered for certification which fails to meet such criteria will be denied export to the United States of America.

3. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden agrees to require all containers in each lot exported to the United States of America under certificate, to be identified by a lot number and marked with all the information required by the Food, Drug, and Cosmetic Act.

4. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to include in the certificate for each lot exported to the United States of America the following information:

a. Lot identification, including name and address of manufacturer;

b. Number and size of containers, in the lot;

c. Analytical results for *Salmonella*, phosphatase, and penicillin;

d. Date of the certificate; and,

e. Name and stamp, or seal of authorizing official.

The validated certificate will accompany the shipping manifest.

5. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to furnish to the Food and Drug Administration a copy of the regulations, and procedures used to assure that dry milk products are sanitary.

6. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to furnish to the Food and Drug Administration a full description of the manufacturing processes and quality controls used to assure the production of sanitary dry milk products.

The Food and Drug Administration

The Food and Drug Administration (FDA) of the Department of Health, Education and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act and Fair Packaging and Labeling Act. In fulfilling its responsibilities under the Acts, FDA directs its activities toward the protection of the public health of the United States of America by ensuring that foods are safe and wholesome and that products are honestly and informatively labeled. This is accomplished by inspecting the processing and distribution of foods and by collecting and examining samples to assure compliance with these Acts. To carry out these responsibilities as they relate to imported dry milk products and in fulfillment of its Memorandum of Understanding commitment:

1. The Food and Drug Administration will sample dry milk products certificated under this Memorandum of Understanding to assure that the exporting country and the exported products comply with specifications set forth in this agreement. The intensity of sampling may be reduced on gaining confidence in the compliance of the products to these specifications. The FDA may also check for other attributes to make sure the products also comply with the other re-

quirements of the Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act.

2. Information obtained by the Food and Drug Administration through its audit sampling will be shared with the Commercial Office of the Royal Swedish Embassy.

3. The Commercial Office of the Royal Swedish Embassy will be promptly notified by the Food and Drug Administration of any detention of dry milk products covered by this Memorandum and also of modifications in the regulations.

4. The Food and Drug Administration will share expertise and will provide consultative assistance to the exporting country when necessary to assure the safety of the dry milk products exported to the United States of America.

5. If audit sampling discloses that certified dry milk products are not conforming to the requirements of the MOU and if adequate steps are not taken to correct the situation after proper notification, the Food and Drug Administration may propose termination of the Memorandum of Understanding.

Sample Collection

The same subsamples will be used for determining the presence of *Salmonella*, phosphatase and penicillin residues. They will be collected as follows: Following aseptic techniques, 30 subsamples each containing approximately 100 grams will be randomly collected from each lot. If the lot contains packaged units weighing approximately 225 grams (about 8 ounces) or less, but more than 100 grams, 30 of these units will be randomly collected, unopened, from the lot.

Analytical Methodology

The subsamples of dry milk products will be aseptically reconstituted. To reduce the analytical workload, the subsamples collected from a lot may be combined to give 2 to 10 composites at the option of the testing laboratory and reconstituted. Examples of compositing combinations are given in Attachment A.[1]

1. *Salmonella.* Reconstituted dry milk products will first be analyzed for presence of *Salmonella* according to the methods contained in:

a. *Bacteriological Analytical Manual,* Fourth Edition, 1976, Chapter VI—Detection and Identification of *Salmonella,* including *Arizona,* or in

b. *Methods of Analysis—AOAC,* Twelfth Edition, 1975, Chapter 46, Microanalytical Methods, Section 46.013, et. seq. (Note: Both (a) and (b) give methods based upon 100 gram samples.)

Lots of dry milk products that are positive for *Salmonella* will not be certified for export to the United States.

2. *Phosphatase.* Reconstituted dry milk products will be tested for phosphatase activity by the Scharer Rapid Method for Phosphatase Analysis, described in *Standard Methods for the Examination of Dairy Products,* Thirteenth Edition, 1972, Section 18.4.

Lots of dry milk products demonstrating positive phosphatase activity will not be certified for export to the United States.

3. *Penicillin.* Reconstituted dry milk products will be tested for penicillin residues by either the *S. lutea,* cylinder method as described in *Methods of Analysis—AOAC,* Twelfth Edition, Section 42.252 et. seq., p. 812–813; or, by the *B. stearothermophilus,* variety calidolactis, disk assay method described in the *International Standard FIL–IDF 57:1970* of the International Dairy Federation normally used in Sweden for this purpose.

While the Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden may choose to use either of these methods for certification of lots, FDA will continue to use the *S. lutea* cylinder method, which is an official AOAC method, in its regulatory enforcement to assure that imported dry milk products are free of penicillin residues.

Lots of dry milk products found to be penicillin positive, will not be certified for export to the United States.

References of Analytical Methods Cited in This MOU

1. *Bacteriological Analytical Manual,* Fourth Edition, 1976, The Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

2. *Methods of Analysis—AOAC,* Twelfth Edition, 1975, The Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

3. *Standard Methods for the Examination of Dairy Products,* Thirteenth Edition, 1972, American Public Health Association, 1015 Eighteenth Street, NW., Washington, D.C. 20036.

4. *The International Standard FIL–IDF 157: 1970,* International Dairy Federation, General Secretariat, Square Vergote 41, Brussels, Belgium.

Modification and Termination of the MOU

Changes in this Memorandum of Understanding may be proposed by either of the participants. When the proposed changes are acceptable to both participants, they will be incorporated into the Memorandum.

This Memorandum of Understanding will become effective 90 days after signature by the participants, and will remain in effect pending revocation by either participant. Upon its effective date, this Memorandum of Understanding will be published in the FEDERAL REGISTER. A copy will be available for public review at the office of the Hearing Clerk, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

In witness whereof, the countries have executed this Memorandum of Understanding.

For the Swedish Government Board of Dairy Products and Eggs, KMA, Sweden:

TORE FRENNBORN,
Managing Director, Sweden,

Date: August 15, 1977.

For the Food and Drug Administration:

DONALD KENNEDY,
Commissioner of Food and Drugs, United States of America,

Date: November 2, 1977.

Effective date: This memorandum of understanding became effective November 2, 1977.

Dated: January 9, 1978.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 78-1021 Filed 1-16-78; 8:45 am]

[1] Filed as part of the original document.

[4110-03]

OPHTHALMIC DEVICE CLASSIFICATION PANEL

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Ophthalmic Device Classification Panel	Feb. 16 and 17, 9 a.m. room 503/507A, 200 Independence Ave. SW., Washington, D.C.	Closed deliberations, Feb. 16, 9 to 11:30 a.m.; open public hearing, Feb. 16, 12:30 to 1:30 p.m.; open committee discussion, Feb. 16, 1:30 to 5 p.m.; open public hearing Feb. 17, 9 to 10 a.m.; open committee discussion, Feb. 17, 10 a.m. to 5 p.m.; Max W. Talbott, Ph. D. (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7538.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to pre-

sent to the executive secretary information pertinent to: (1) preclinical and manufacturing guidelines for intraocular lenses and (2) exemption of Class I ophthalmic devices from certain registration requirements. Submission of data on tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by February 3, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentations.

Open committee discussion. Discussions will concern the subjects listed under the open public hearing. The panel will also discuss any other pertinent items concerning ophthalmic devices.

Closed committee deliberations. The panel will review premarket approval applications for opthalmic devices. These reviews will be conducted in closed session because of trade secret data contained in the applications (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: January 9, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-1023 Filed 1-16-78; 8:45 am]

[4110-03]

[FDA-225-78-4000]

INSPECTION OF ALLEGHENY COUNTY, PA, FOOD PROCESSING, STORAGE, AND SERVICE FACILITIES AND INTERSTATE CARRIER SUPPORT FACILITIES

Memorandum of Understanding with the Allegheny County Health Department

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with Allegheny County (Pennsylvania) Health Department. The purpose of the memorandum is to set forth cooperative working arrangements to be followed in the inspection of Allegheny County food processing, storage, and service facilities of mutual obligation and interstate carrier support facilities.

DATES: The agreement became effective November 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING BETWEEN ALLEGHENY COUNTY HEALTH DEPARTMENT AND PHILADELPHIA DISTRICT OFFICE, U.S. FOOD AND DRUG ADMINISTRATION

I. PURPOSE

It is the purpose of this understanding to provide more effective consumer protection through the more efficient utilization of County and Federal manpower and resources in the inspection of food processing, storage, and service facilities and interstate carrier support facilities in Allegheny County, Pa.

II. OBJECTIVE

To coordinate County and Federal regulation of food processing, storage, and service facilities and interstate carrier support facilities in Allegheny County, Pa., by means of a joint system of planning, inspection, sampling, data processing and compliance action.

III. GENERAL PROVISIONS

A. *Inspectional obligation*

1. *Inspection inventory.*—An inventory of facilities to be covered by this understanding will be developed by both agencies and maintained by FDA's data processing unit (DPU).

2. *Inspection frequency.*—a. *Food facilities*—Inspections will be performed by County and Federal inspectional personnel (FDA inspections and FDA contracted inspections). Inspection frequency will be determined and a scheduling system will be developed during the term of this understanding.

b. *Interstate carrier*—County inspectional personnel will conduct semi-annual inspections of each facility included in the inventory with follow-up inspections as necessary to determine compliance with regulations.

3. *Inspection format.*—a. *Food facilities*—Inspection formats currently used by the participating agencies will remain unchanged during the term of this understanding unless both agencies agree to revisions.

b. *Interstate carrier*—Each inspection will consist of an evaluation of water distribution systems, hydrants and appurtenances, sewage and solid waste disposal equipment, sanitary practices and insect and rodent control. Water samples will be collected from hydrants and bulk water trucks periodically for laboratory analysis for potability.

4. *Joint inspections.*—Inspections involving personnel of both agencies will be conducted as needed for training purposes, program evaluation or impact action.

5. *Inspection reporting.*—a. *Food facilities*—Inspection reports will be maintained by each agency and provided to the partner agency for review if requested.

b. *Interstate carrier*—Inspectional data will be obtained by County personnel and provided to FDA on forms supplied by FDA.

6. *Accomplishment data.*—a. *Food facilities*—During the term of this understanding the need for retrieval of accomplishment data will be determined and a system will be devised for its retrieval if indicated.

b. *Interstate carrier*—Data will be retrieved periodically and supplied by DPU to both agencies for program evaluation and planning purposes.

B. *Compliance actions*

1. *Food facilities.*—The agency which discovers a violation will be responsible for obtaining compliance either under its own authority or by referral to its partner agency. The partner agency will be informed of the violation discovery and of the status of the partner's corrective action and will refrain from inspecting the facility during the period of compliance activity. If indicated, the County will utilize the regulatory tools of embargo or condemnation when requested by FDA to correct a violative condition.

2. Interstate carrier.—a. *County action*—Inspection reports will be directly transmitted to the responsible official at the support facility with copies routinely forwarded to the FDA District Office. Violations of a critical nature will be immediately brought to the District Office attention for decision regarding "Use-Prohibited" classification.

b. *FDA action*—FDA will send letter of transmittal to all interstate carriers utilizing the facility for all classifications—Approved, Provisional and Use-Prohibited. FDA will notify carriers within 24 hours of "Use-Prohibited" classification.

C. *FDA commissioning*

During the term of this understanding the need for FDA commissions of county officials will be determined and obtained if indicated.

D. *Foodborne illness investigation*

The Deputy Director for Environmental Health of Allegheny County or his designee will promptly notify the director of FDA's Philadelphia Investigations Branch or his designee of suspected foodborne illnesses and request assistance as needed. FDA will provide requested assistance to the County and will be kept informed of the progress of County investigation by telephone and with copies of written investigation reports.

E. *Recall effectiveness checks*

Each agency will cooperate with the other in determining the effectiveness of product recalls in removing food products of public health significance from the market. The County will respond promptly within the limits of available manpower to FDA requests for assistance during recalls.

F. *Complaint investigations*

1. *Received by county.*—Complaints involving out-of-county food products will be investigated at the consumer level by the County and submitted to FDA for further follow-up investigation at the manufacturer if indicated.

2. *Received by FDA.*—FDA may refer complaints received which involve food products manufactured in the County or out-of-county products suspected of being adulterated while in the County to the County for follow-up investigation. FDA will refer such complaints to the County on forms FD-2516 and 2516a. The County will complete section 5b on 2516a to denote action taken and will return the form to FDA retaining one copy for its files.

IV. PROGRAM REVIEW

A. *Planning sessions*

Semi-annual joint planning sessions will be held during the term of this understanding to discuss the cooperative program, maintain effective communication, evaluate accomplishments and plan future objectives. The sessions will be alternated between the agencies with the host providing a meeting room and secretarial support for preparation of a record of the proceedings. Each session will be arranged for and moderated by FDA's Region III Assistant Food and Drug Director for Intergovernmental Affairs.

B. *Performance evaluation*

Report review, periodic joint inspections and data appraisal will be used to evaluate program performance. Program inadequacies discovered during such evaluation will be discussed by both agencies and corrective measures immediately implemented.

V. TERM OF UNDERSTANDING

This understanding will expire on November 30, 1978, unless renewed and signed by the heads of both cooperating agencies to continue it in effect for another year.

This understanding in its entirety, or in part, may be revised by mutual consent or terminated upon thirty days' written notice by either agency.

Approved and accepted for the Allegheny County Health Department by:

FRANK B. CLACK, V.M.D.,
Director.

Dated: November 18, 1977.

Approved and accepted for Philadelphia District, FDA, by:

LOREN Y. JOHNSON,
District Director.

Dated: November 18, 1977.

Effective date: This memorandum of understanding became effective November 18, 1977.

Dated: January 9, 1978.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 78—1202 Filed 1-16-78; 8:45 am]

[1505-01]

[Docket No. 77P-0274]

HANOVER BRANDS, INC.

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

Correction

In FR Doc. 77-31925, appearing at page 57748 in the issue of Friday, November 4, 1977, the last line of the "Effective Date" paragraph should read, "1978" and the last line of the last full paragraph should read, "than February 2, 1978".

[1505-01]

[Docket No. 77N-0316]

PFIZER, INC., ET AL.

Tetracycline (Chlortetracycline and Oxytetracycline)-Containing Premixes; Opportunity for Hearing

Correction

In FR Doc. 77-30698, appearing at page 56264 in the issue of Friday, October 21, 1977, make the following changes:

1. On page 56270, second column, the first line of the second reference should read: "2. Feary, R. W., A. B. Sturtevant, and J.", the last line of the sixth reference should read: "Nature, 228:1286-1289, 1970b," and the seventh reference should read, "7. FDC Docket No. 77-NO156, EIAR for CSP."

2. On page 56271, second column, the 18th line should read: "tion endonucleases are enzymes the cleave" and the last line of the column should read: "tunity for transmission than does eating".

3. On page 56285, second column, the first word in the second line of the 24th reference should read: "Transposition".

4. On page 56287, second column, the first line of the last full paragraph should read: "The safe and effective new animal drug" and the third from last line of the column should read, "Hygromycin B———558.274".

5. On page 56287, third column, the last line of the 13th reference should read: "phylaxis and Therapy,' 1958."

6. On page 56288, the fifth line of the first full paragraph should read: "biotic resistance, mediated by transfer-" and the first line of the third column should read: "1978, in support of its opposition to the".

[1505-01]

[Docket No. 77N-0085]

SACCHARIN AND ITS SALTS

Final Guidelines

Correction

In FR Doc. 77-35308 appearing on page 62209 in the issue for Friday, December 9, 1977, in the last line of the paragraph numbered 3, third column, page 62209, "cipal of the food label" should read "cipal display panel of the food label".

[4110-08]

National Institutes of Health

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a "Conference on Membrane Receptors and Disease" to be held by the National Institute of General Medical Sciences on March 23-24, 1978, 8:30 a.m., Wilson Hall, Building 1, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on both days.

Dr. Elke Jordan, National Institute of General Medical Sciences, Westwood Building, Room 910, telephone 301-496-7175, will furnish substantive program information, including an agenda, on request.

Dated: January 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-1064 Filed 1-16-78; 8:45 am]

[4110-08]

REPORTS ON BIOASSAYS OF ALDRIN AND DIELDRIN FOR POSSIBLE CARCINOGENICITY

Availability

Addrin and dieldrin have been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. Reports on the tests of each compound are available to the public. One report concerns tests of aldrin and dieldrin with rats and mice; a second report concerns tests of dieldrin with a different rat species.

Summary of Aldrin and Dieldrin Tests: Bioassays of technical-grade aldrin and dieldrin for possible carcinogenicity were conducted by administering the test materials in feed to Osborne-Mendel rats and B6C3F1 mice.

Aldrin—Group of 50 rats of each sex were administered aldin at one of two doses, either 30 or 60 ppm. Male rats were treated for 74 weeks, followed by 37-38 weeks of observation; female rats were treated for 80 weeks, followed by 32-33 weeks of observation. 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 58 untreated males and 60 untreated females from similar bioassays of other chemicals. All surviving rats were killed at 111-113 weeks.

Groups of 50 mice of each sex were administered aldrin at one of two doses for 80 weeks, then observed for 10-13 weeks. Time-weighted average doses were 4 or 6 ppm for males and 3 or 6 ppm for females. Matched controls consisted of groups of 20 untreated male mice and 10 female mice; pooled controls, used for statistical evaluation, consisted of the matched-control groups combined with 92 untreated male and 79 untreated female mice from similar bioassays of other chemicals. All surviving mice were killed at 90-93 weeks.

Mean body weights attained by the rats and mice fed diets containing aldrin were similar to those of the controls during the first year of the study; however, mean body weights of the treated rats were lower than those of the controls during the second year of the study. Hyperexcitability was observed in all treated groups with increasing frequency and severity during the second year. Aldrin produced no significant effect on the mortality of rats or of male mice, but there was a dose-related trend in the mortality of female mice, primarily due to the early deaths in the high-dose groups.

There was an increased combined incidence of follicular-cell adenoma and carcinoma of the thyroid both in male rats fed aldrin (matched controls 3/7, pooled controls 4/48, low-dose 14/38, high-dose 8/38) and female rats fed aldrin (matched controls 1/9, pooled controls 3/52, low-dose 10/39, high-dose 7/46). These incidences were significant in the low-dose but not in the high-dose groups both of males ($P=0.001$) and females ($P=0.009$) when compared with the pooled controls. Comparisons with matched controls, however, were not significant.

Cortical adenoma of the adrenal gland was also observed in aldrin-treated rats in significant proportions ($P=0.001$) in low-dose (8/45) but not in high-dose (1/48) females when compared with pooled controls (0/55). Because these increased incidences were not consistently significant when compared with matched rather than pooled control groups, it is questionable whether the incidences of any of these adrenal tumors were associated with treatment.

In male mice, there was a significant dose-related increase in the incidence of hepatocellular carcinomas (matched controls 3/20, pooled controls 17/92, low-dose 16/49, high-dose 25/45 when compared with either matched controls ($P=0.001$), or pooled controls ($P<0.001$). The incidence in the high-dose group was significant when compared with matched controls ($P=0.002$) or pooled controls ($P<0.001$).

Dieldrin—Groups of 50 rats and 50 mice of each sex were administered dieldrin at one of two doses. Low dose rats and both low- and high-dose mice were treated for 80 weeks, followed by observation periods of 30-31 weeks for rats and 10-13 weeks for mice. Treatment of high-dose rats was terminated after 59 weeks and followed by 51-52 weeks of observation. Time-weighted average doses for rats were 29 or 65 ppm; doses for mice were 2.5 or 5 ppm. Matched controls consisted of groups of 10 untreated rats of each sex and 20 untreated male mice and 10 female mice; pooled controls, used for statistical evaluation, consisted of the matched-control groups combined with untreated animals from similar bioassays of other chemicals (58 male and 60 female rats, 92 male and 79 female mice). All surviving rats were killed at 110-111 weeks, and all surviving mice at 90-93 weeks.

Mean body weights attained by the rats and mice fed diets containing dieldrin showed little or no difference compared with those of the controls during the first year of the study; however, mean body weights of the

treated rats were lower than those of the controls during the second year of the study. Hyperexcitability was observed in all treated groups with increasing frequency during the second year, especially in high-dose rats.

There was a marked increase in the mortality rate of rats during the first 90 weeks of the study. However, because of the high rates of mortality in the control groups during the remaining 20 weeks, survival could not be shown to be statistically dose responsive.

In rats, there was a significant ($P=0.007$) difference between the combined incidence of adrenal cortical adenoma or carcinoma in the low-dose females (6/45) and that in the pooled controls (0/55). Although this tumor was also found in animals treated with aldrin, it is not clearly associated with treatment, because the incidence in the high-dose (2/40) was not significant, and the incidences were not significant when matched, rather than pooled, controls were used for comparison.

In male mice, there was a significant positive dose-related trend ($P=0.020$) in the incidence of hepatocellular carcinomas using the pooled controls (pooled controls 17/92, low-dose 12/50, high-dose 16/45). When high-dose males were compared with the pooled controls, the results were also significant ($P=0.025$).

It is concluded that under the conditions of these bioassays, none of the tumors occurring in Osborne-Mendel rats treated with aldrin or dieldrin could clearly be associated with treatment. Aldrin was carcinogenic for the liver of male B6C3F1 mice producing hepatocellular carcinomas. With dieldrin, there was a significant increase in the incidence of hepatocellular carcinomas in the high-dose males which may be associated with treatment.

Summary of Dieldrin Test: A bioassay of purified technical-grade dieldrin for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats.

Groups of 24 rats of each sex were administered dieldrin at one of three doses, either 2, 10, or 50 ppm, for 104-105 weeks. Matched controls consisted of groups of 24 untreated rats of each sex. All surviving rats were killed at 104-105 weeks.

Body weights of the rats were essentially unaffected by the treatment, but typical signs of organochlorine intoxication including hyperexcitability, tremors, and coma were observed in high-dose males beginning in week 76 and in high-dose females beginning in week 80. Survival was not adversely affected, and adequate numbers of rats were available for meaningful statistical analyses of the incidences of tumors.

A variety of neoplasms occurred in control and treated rats; however, the incidences were not related to treatment.

It is concluded that under the conditions of this bioassay, dieldrin was not carcinogenic in Fisher 344 rats.

Single copies of the reports, Bioassays of Aldrin and Dieldrin for Possible Carcinogenicity and Bioassay of Dieldrin for Possible Carcinogenicity, 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: January 6, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-787 Filed 1-16-78; 8:45 am]

[4110-85]

Public Health Service

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of October 1977 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Name, address, service area, and date of qualification

(Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a))

1. AV-MED, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 9300 South Dadeland Boulevard, Miami, Fla. 33156. Service area: Dade County, Fla. Date of operational qualification: October 7, 1977. (Achieved preoperational qualification on September 9, 1977—see 42 FR 56805-06, October 28, 1977.)

(Transitionally Qualified Health Maintenance Organizations: 42 CFR 110.603(b))

2a. Kaiser Foundation Health Plan, Inc., (Northern California Region), (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1924 Broadway, Oakland, Calif. 94612. Service area: A radius of 30 miles of any Kaiser Foundation Hospital or Northern California Permanente Medical Office including the entire counties of: Alameda, Contra Costa, Marin, Sacramento, San Francisco, San Mateo, Santa Clara, Solano, and cities and towns in the following counties:

AMADOR COUNTY

Carbondale, Forest Home, Ione, and Nashville.

EL DORADO COUNTY

Brandon, Brela, Cameron Park, Clarksville, Cool, Cothrin, Dugan, El Dorado, El Dorado Hills, Lake Hills Estates, Latrobe, Lotus, Pilot Hill, Rescue, and Shingle Springs.

NAPA COUNTY

Aetna Springs, Angwin, Calistoga, Deer Park, Franklin, Kellogg, Napa, Oakville, Pope Valley, Rutherford, Sanitarium, St. Helena, and Yountville.

PLACER COUNTY

Auburn, Bowman, Hidden Valley, Lincoln, Loomis, Newcastle, Ophir, Penryn, Rocklin, Roseville, Sheridan, Sunset Whitney Branch, and Thermolands.

SONOMA COUNTY

Bloomfield, Boyes Springs, Cotati, El Verano, Eldridge, Freestone, Fulton, Glen Ellen, Kenwood, Penngrove, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma, Valley Ford, and Vineburg.

SUTTER COUNTY

Chandler, East Nicolaus, Kirkville, Nicolaus, Pleasant Grove, Rio Oso, Robbins, Trowbridge, and Verona.

YOLO COUNTY

Broderick, Bryte, Capay, Clarksburg, Davis, Dixon, El Macaro, Knights Landing, Madison, Tremont, West Sacramento, Winters, Woodland, Yolo, and Zamora.

YUBA COUNTY

Wheatland.

Date of qualification: October 27, 1977.

2b. Kaiser Foundation Health Plan, Inc., (Southern California Region), (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1515 North Vermont, Los Angeles, Calif. 90027. Service area: A radius of 30 miles of any Kaiser Foundation Hospital or Southern California Medical Office. Kern County and Mexico are excluded from the service area. The following zip codes located in Los Angeles, Orange, Riverside, San Berardino, San Diego, and Ventura Counties are included:

9000-90099, 90101, 90200-90299, 90300-90399, 90400-90499, 90500-90599, 90600-90699, 90700-90799[1], 90800-90899, 91000-91099, 91100-91199, 91200-91299, 91300-91399, 91400-91499, 91500-91599, 91600-91699, 91700-91799, 91800-91899, 92100-92199, 92400-92499, 91500-92599, 92600-92699[2], 92700-92799, 92800-92899, 92001, 92002, 92007, 92008, 92010, 92011, 92012, 92014, 92016, 92017, 92020, 92021, 92022, 92024, 92025, 92026, 92027, 92031, 92032, 92035, 92037, 92040, 92041, 92045, 92047, 92048, 92050, 92053, 92054, 92062, 92063, 92064, 92065, 92067, 92069, 92070, 92071, 92073, 92075, 92077, 92078, 92080, 92082, 92083, 92220, 92223, 92305, 92307, 92314, 92315, 92316, 92317, 92318, 92320, 92321, 92322, 92324, 92325, 92326, 92329, 92330, 92333, 92335, 92339, 92340, 92341, 92343, 92345, 92346, 92348, 92352, 92353, 92354, 92356, 92358, 92359, 92360, 92362, 92367, 92369, 92370, 92371, 92372, 92373, 92376, 92378, 92380, 92381, 92382, 92385, 92386, 92388, 92391, 92392, 92395, 92396, 92397, 92399, 93010, 93015, 93021, 92040, 93060, 93063, 93064, 93065, 93510, 93532, 93534, 93543, 93544, 93550, 93553, and 93563.

[1] Except 90704 (Avalon).

[2] Except 92672 (San Clemente).

Date of qualification: October 27, 1977.

Kaiser Foundation Health Plan, Inc., (Hawaii Region), (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1697 Ala Moana Boulevard, Honolulu, Hawaii 96815. Service area: Islands of Oahu and Maui. Date of qualification: October 27, 1977.

3. Kaiser Foundation Health Plan of Oregon, (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1500 S.W. First Avenue, Portland Oreg. 97201. Service area as follows:

STATE OF OREGON

Cities, Towns, and Zip Codes	
Aloha	97006
Donald	97020
Banks	97106
Dundee	97115
Barlow	97003
Eagle Creek	97022
Beavercreek	97004
Estacada	97023
Beaverton	97005
Fairview	97024
Do	97007
Forest Grove	97116
Bonne	97009
Gales Creek	97117
Bridal Veil	97010
Gaston	97119
Brightwood	97011
Gladstone	97027
Canby	97013
Gresham	97030
Carlton	97111
Hillsboro	97123
Clackamas	97015
Hubbard	97032
Colton	97017
Jennings Lodge	97267
Columbia City	97018
Lafayette	97127
Corbett	97019
Lake Grove	97035
Cornelius	97113
Lake Oswego	97034
Dayton	97114
Manning	97125
Deer Island	97054
Marylhurst	97036
McMinnville	97128
Milwaukee	97222
Molalla	97038
Mt. Angel	97362
Mulino	97043
Newberg	97132
North Plains	97133
Oak Grove	97268
Oregon City	97045
Portland	97043
Do	97201
Do	97202
Do	97203
Do	97204
Do	97205
Do	97206
Do	97207
Do	97208
Do	97209
Do	97210
Do	97211
Do	97212
Do	97213
Do	97214
Do	97215
Do	97216
Do	97217
Do	97218
Do	97219
Do	97220
Do	97221
Do	97225
Do	97226
Do	97227
Do	97229
Do	97230
Do	97231
Do	97232
Do	97233

STATE OF OREGON—Continued

Cities, Towns, and Zip Codes	
Do	97236
Do	97242
Do	97266
St. Helens	97051
Sandy	97055
Scappoose	97056
Sherwood	97140
Tigard	97223
Troutdale	97060
Tualitan	97062
Warren	97053
Wemme	97067
Westlinn	97068
Wilsonville	97070
Woodburn	97071
Do	97072

STATE OF WASHINGTON

Cities, Towns, and Zip Codes	
Amboy	98601
Ariel	98603
Battleground	98604
Camas	98606
Do	98607
Heisson	98622
Kalama	98625
LaCenter	98629
Ridgefield	98642
Skamania	98646
Vancouver	98660
Do	98661
Do	98662
Do	98663
Do	98664
Do	98665
Washougal	98671
Woodland	98674
Yacolt	98675

Date of qualification: October 27, 1977.

4. Kaiser Community Health Foundation, (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1101 Bond Court, 1300 East Ninth Street, Cleveland, Ohio 44114. Service area: Counties—Cuyahoga, Lake, Geauga, Medina, Lorain and Summit, except the townships of Franklin and Green are excluded from Summit County. Townships in the following counties—Ashtabula, Trumbull, Hartsgrove and Windsor. Trumbull: Mesopotamia and Farmington. Portage: Aurora, Brimfield, Charlestown, Franklin, Freedom, Hiram, Mantua, Nelson, Ravenna, Rootstown, Shalersville, Streetsboro, and Windham.

Date of qualification: October 27, 1977.

5. Kaiser Foundation Health Plan of Colorado, Inc., (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 2525 West Alameda Avenue, Denver, Col. 80219. Service area: City and County of Denver; communities immediately surrounding Denver, including all major and minor urbanized areas immediately adjacent to Denver; and cities, towns and communities in the following counties:

ADAMS COUNTY

Adams City, Barr Lake, Bow Mar, Brighton, Commerce City, Derby, Dupont, Eastlake, Federal Heights, Hazeltine, Henderson, Highland Acres, Irondale, Lochbuie, Northglenn, Riverdale, Thornton, Watkins, Welby, and Westminster.

ARAPAHOE COUNTY

Aurora, Cherry Hills, Columbine Valley, Englewood, Greenwood Village, Littleton, and Sheridan.

BOULDER COUNTY

Boulder, Broomfield, Crescent Village, Eldorado Springs, Erie, Goodview, Lafayette, Longmont, Louisville, Marshall, Niwot, Silver Spruce, Superior, and Valmont.

CLEAR CREEK COUNTY

Beaver Brook, Brookvale, and Hyland Hills.

DOUGLAS COUNTY

Blakeland, Gann, Louviers, Parker, Riverside, and Sedalia.

GILPIN COUNTY

Floyd Hill.

JEFFERSON COUNTY

Arvada, Aspen Park, Bensen Park, Conifer, Critchell, Deermont, Edgewater, El Rancho, Evergreen, Fenders, Green Valley Acres, Golden, Hiwan Hills, Homewood Park, Idledale, Indian Hills, Kassler, Kittredge, Lakewood, Leyden, Marshalldale, Morrison, Mountain View, Plain View, Phillipsburg, Rosedale, Semper, Sprucedale, Tiny Town, Troutdale, Twin Forks, and Wheat Ridge.

Date of qualification: October 27, 1977.

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

6. Manhattan Health Plan, Inc., (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 425 East 61st Street, New York, N.Y. 10021. Service area: Manhattan and Roosevelt Island in County of New York in the State of New York inclusive of zip codes 10001 through 10048. Date of qualification: October 31, 1977.

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Division of Health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: January 10, 1978.

JOYCE C. LASHOF,
Deputy Assistant Secretary for Health—Programs.

[FR Doc. 78-1127 Filed 1-16-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENVIRONMENTAL ASSESSMENT

Availability

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Service announces the availability of an environmental assessment on "Proposed Permanent

Facilities for the National Fish and Wildlife Health Laboratory, Madison, Wis." Based on this assessment, the Service has determined that the proposed purchase and renovation of laboratory facilities for use as headquarters of the National Fish and Wildlife Health Laboratory 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.

ADDRESSES: Copies may be obtained from Dr. Milton Friend, Director, National Fish and Wildlife Health Laboratory, University of Wisconsin, Madison, Wis. 53706, or Dr. Charles Dane, Staff Specialist, Migratory Bird Research, Division of Wildlife Research, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Milton Friend, address above, 608-252-5411, or Dr. Charles Dane, address above, 202-343-7557.

SUPPLEMENTARY INFORMATION: James E. Pinkerton, Directives Management, Division of Financial and Management Systems, U.S. Fish and Wildlife Service, is the primary author of this document.

F. EUGENE HESTER,
Director,
Fish and Wildlife Service.

[FR Doc. 78-1223 Filed 1-16-78; 8:45 am]

[4310-70]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 6, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by January 27, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Bibb County

Centreville, *Centreville Historic District,* Walnut St., Court Square East and West.

ALASKA

Kenai-Cook Inlet Division

Ninilchik, *Holy Transfiguration of Our Lord Chapel,* Mile 135, Sterling Highway.

DELAWARE

New Castle County

Newark, *Dean, Joseph, and Son, Woolen Mill,* Race St., Deandale St.
Wilmington vicinity, *Augustine Paper Mill,* N. Brandywine Park Dr.
Yorklyn, *Garrett Snuff Mill,* jct. of DE 82 and Yorklyn Rd.

Sussex County

Laurel vicinity, *Chipman's Mill,* E of Laurel on SR 465.

DISTRICT OF COLUMBIA

Washington

American Revolution Statuary, at public buildings and various parks in DC.

MINNESOTA

Cook County

Grand Marais vicinity, *Eagle Mountain,* NW of Grand Marais.
Grand Marais Vicinity, *Paulson Mine Site,* 45 mi. (72 Kms) NW of Grand Marais on SR 12.

Lake County

Ely vicinity, *Crooked Lake Pictographs,* NE of Ely on Superior National Forest.
Isabella vicinity, *Fishdance Lake Pictographs,* N of Isabella on Superior National Forest.

St. Louis County

Buyck vicinity, *Beatty Portage Pictographs,* NE of Buyck on Superior National Forest.
Ely vicinity, *Birch Lake Plantation,* S of Ely on Superior National Forest.
Ely vicinity, *Hegman Lake Pictographs,* N of Ely on Superior National Forest.

OKLAHOMA

Beaver County

Gate vicinity, *Lonker Archeological Site,* N of Gate.

Cimarron County

Kenton vicinity, *Red Ghost Cave Archeological Sites,* S of Kenton.
Kenton vicinity, *Three Entrance Cave Archeological District,* NE of Kenton.

Roger Mills County

Berlin vicinity, *Goodwin-Baker Archeological Site,* NE of Berlin.

Seminole County

Sasakwa vicinity, *Roulston-Rogers Site,* NW of Sasakwa.

Texas County

Eva vicinity, *Shores Archeological Site,* E of Eva.
Guymon vicinity, *Easterwood Archeological Site,* NW of Guymon.
Texhoma vicinity, *Johnson-Cline Archeological Site,* NW of Texhoma.

OREGON

Lane County

Florence vicinity, *Heceta Head Lighthouse and Lighthouse keepers Quarters,* N of Florence on U.S. 101.

TEXAS

Bastrop County

Bastrop, *Resources of Bastrop,* U.S. 290 and TX 95.

WASHINGTON

Clallam County

Sequim vicinity, *Manis Mastodon Site,* S of Sequim.

Grays Harbor County

Aberdeen, *Sierra* (motor ship), 1401 Sargent Blvd.

King County

Bellevue, (The) *Moorings,* 1401 92nd Ave., NE.
Seattle, *Home of Good Shepherd,* 50 and Sunnyside N.
Seattle, *Nippon Kan,* 622 S. Washington St.

Pacific County

Tokeland, *Tokeland Hotel,* Kindred Ave. and Hotel Rd.

Pierce County

Gig Harbor vicinity, *Glencove Hotel,* W of Gig Harbor off WA 302
Tacoma, *Rhodes Medical Arts Building,* 740 St. Helens Ave.

Skagit County

LaConner vicinity, *Sqwikwikwab,* SE of LaConner.

Spokane County

Spokane, *First Congregational Church of Spokane,* W. 311-329 4th Ave.

Thurston County

Olympia, *Cloverfields,* 1100 Carlyon Ave., SE.
Olympia, *Patnude, Charles, House,* 1239 8th Ave.
Tumwater, *Tumwater Historic District,* roughly bounded by I-5, Capitol Way, and Capitol Lake.

[FR Doc. 78-1035 Filed 1-16-78; 8:45 am]

[4310-10]

Office of the Secretary

BUREAU OF INDIAN AFFAIRS REORGANIZATION

Task Force

Notice is hereby given in accordance with Pub. L. 92-463 that the fourth meeting of the Bureau of Indian Affairs Reorganization Task Force has been rescheduled from February 8, 1978, meeting in Washington, D.C., to five (5) field conference locations. The 5 field conference locations, together with the specific date and specific meeting room for each conference follow:

January 30—Phoenix: U.S. Tax Court, Room 235, Federal Building and Court

House, 522 North Central, Phoenix, Ariz. 85004; conference time: 10 a.m. to 5 p.m.

February 1—Oklahoma City: Room 637, A. P. Murray Building, 200 Northwest 5th Street, Oklahoma City, Okla. 73102; 10 a.m. to 5 p.m.

February 1—Denver: Federal Office Building, 1961 Stout Street, Room 2330, 2nd floor, Denver, Colo. 80202; 10 a.m. to 5 p.m.

February 2—Portland: Conference Room 1578, Federal Building, 1220 Southwest 3rd Avenue, Portland, Oreg. 97204; 10 a.m. to 5 p.m.

February 8—Duluth: U.S. Court House, Room No. 1, 515 West 1st Street, Duluth, Minn. 44802; 10 a.m. to 5 p.m.

The purpose of these conferences is to receive comments concerning issues and problems involving Bureau of Indian Affairs reorganization.

Testimony may be given by any member of a tribal group or organization or any member of the general public. Four days prior to each conference, persons wishing to testify must notify, in writing, the appropriate office listed below of such desire to testify. (At the conference each of these persons must also submit a written statement to a BIA reorganization task force staff member present before delivering his presentation.)

Phoenix Area Office: 3030 North Central, P.O. Box 7007, Phoenix, Ariz. 85011, 602-261-4101, FTS (8) 261-4101.

Minneapolis Area Office: Area Director, Bureau of Indian Affairs, 831 2nd Avenue South, Minneapolis, Minn. 55402, 612-725-2905, FTS (8) 725-2905.

Bureau of Indian Affairs, U.S. Post Office Building and Court House, Room 158, 3rd and Robinson Streets, Oklahoma City, Okla. 73102, 405-231-4217, FTS (8) 231-4217.

Denver Field Liaison Office: Bureau of Indian Affairs, 491 United States Custom House, 721 19th Street, Denver, Colo. 80202, 303-837-5361, FTS (8) 327-5361, (8) 327-4281.

Bureau of Indian Affairs, Office of Tribal Operations, P.O. Box 3785, Portland, Oreg. 97208, 503-234-3361, ext. 4283, FTS (8) 429-4248, ext. 4283.

Persons wishing further general information concerning these conferences may contact Jack Rushing, Task Force Director, Office of the Secretary, Room 7353, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-6010.

Minutes of each conference will be available for public inspection one to two weeks after each task force conference.

Dated: January 11, 1978.

DAVID USHIO,
Deputy Assistant Secretary for Policy, Budget and Administration.

[FR Doc. 78-1196 Filed 1-16-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-30]

CERTAIN DISPLAY DEVICES FOR PHOTOGRAPHS AND THE LIKE

Commission Determination and Order and Commissioners' Opinions

PROCEDURAL HISTORY

On January 14, 1977, a complaint was filed with the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Charles D. Burnes Co., of Boston, Mass. (hereinafter "complainant"), that unfair methods of competition and unfair acts exist in the unlicensed importation of hexahedron-shaped devices for the display of photographs and the like (hereinafter "display cubes") into the United States, or in their sale, by reason of the coverage of such display cubes by the claims of U.S. Letters Patent No. 3,774,332, the effect or tendency of such unlicensed importation being to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Accordingly, complainant sought an order of exclusion against the imports in question. On February 15, 1977, the Commission instituted an investigation thereof and published a notice of investigation in the FEDERAL REGISTER of February 18 (42 FR 10073). Copies of the complaint and notice of investigation were served upon numerous named respondents. Of those, only four companies—Montgomery Ward Co., Inc., Harben Co., Chadwick-Miller, Inc., and M.I.M. Lador, Inc.—answered the complaint and then only in a general manner. On March 2, 1977, respondents were served with interrogatories by Commission investigative staff. On May 6, 1977, the Presiding Officer issued a notice of preliminary conference for May 26, 1977, but no respondent attended this conference.

On August 1, 1977, complainant and the Commission investigative staff filed a joint motion for summary determination under section 210.50 of the Commission's rules of practice and procedure (hereinafter "CRPP"). None of the respondents opposed the motion by filing affidavits with the Presiding Officer, or by any other means. Accordingly, on August 31, 1977, the Presiding Officer, per CRPP section 210.53, issued his recommended determination that the Commission:

1. Determine that there is a violation of section 337 in the importation or sale in the United States of display devices for photographs and the like meeting the claims of U.S. Letters Patent 3,774,332; and, further,

2. Grant the joint motion of complainant and the Commission investigative staff for summary determination under CRPP section 210.50 on all issues (motion Docket 30-5); and, further,

3. Dismiss certain enumerated respondents for the reason that they are not presently importing infringing products, or were not effectively served, and therefore are not proper respondents in the investigation (motion Docket 30-4).

No respondent filed exceptions or alternative findings of fact and conclusions of law to the Presiding Officer's recommended determination per CRPP section 210.54, nor did any respondent take any other action.

On September 2, 1977, the Commission investigative staff filed a supplemental submission to the joint motion of complainant and Commission investigative staff discussing U.K. Patent No. 1,270,715 (hereinafter "the British patent") in order to complete the record and address certain questions as to the existence of prior art and derivation raised thereby. The Presiding Officer, by his supplement to recommended determination of September 8, 1977, discussed the British patent, held that it does not affect the findings of fact and conclusions of law of the recommended determination of August 31, and amended the recommended determination to include five additional respondents recommended for dismissal.

On October 31, 1977, the Commission held a hearing for the purposes of hearing oral argument with respect to:

1. The Presiding Officer's recommended determination that there is a violation of section 337.

2. Appropriate relief in the event that the Commission determines that there is a violation of section 337 and determines that there should be relief; and

3. Relief and the public interest factors as set forth in sections 337 (d) and (f) of the Tariff Act of 1930, which the Commission is to consider in the event it determines there is a violation of section 337 and determines that there should be relief.

Notice for the above hearing was issued on October 5, 1977, and served upon respondents; no respondent attended the hearing. Oral argument on all three of the above topics was presented by both complainant and the Commission investigative staff at the hearing.

COMMISSION DETERMINATION

Having reviewed: (1) The evidentiary record in the investigation as certified to it by the Presiding Officer, (2) the Presiding Officer's recommended determination and supplemental documents, and (3) the hearing record of October 31, 1977, the Commission, by action of November 29, 1977, unanimously determined:

1. To dismiss J & M Enterprises; Amerex International, Ltd.; Sanyei New York Corp.; Wai Cheong Industrial Co., Ltd.; Minami

Sangyo, Ltd.; G. C. Murphy Co.; Cuckoo Clock Mfg. Co., Inc.; Reliance Pen & Pencil Corp.; F. W. Woolworth Co.; Crest Industries Corp.; Henry Co.; T. Chatani & Co., Ltd.; Osaka General Trading Co., Ltd.; Wing Tat Industrial Co.; Medi Mart; Maruyama Noboru Seisakusho K. K.; Wah Hing Plastic & Metal Ware Factory, Ltd.; Oriental Plastic Factory; Oriental Plastic Industrial Corp., Western Universal (H.K.), Ltd.; and Montgomery Ward & Co., Inc., as respondents in the investigation for the reason that they are not presently importing infringing products or were not effectively served, and therefore are not proper respondents in the investigation (Motion Docket 30-4 and 30-6).

2. That the joint motion for summary determination of complainant and the Commission investigative staff should be granted for the reason that there is no genuine issue as to any material fact and that the moving parties are entitled to summary determination as a matter of law [Motion Docket 30-5].

3. That there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), by reason of the importation into the United States of certain display devices for photographs and the like, or in their sale by the owner, importer, consignee, or agent or either, because such devices: (a) Infringe claims 1, 2, and 3 of the valid U.S. Letters Patent No. 3,774,332, thereby constituting an unfair method or unfair act within the meaning of section 337, and (b) the effect or tendency of such unfair method or act is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, and

4. That the appropriate remedy for such violation is to direct that the articles concerned, display devices for photographs and the like, made in accordance with one or more of the claims of U.S. Letters Patent No. 3,774,332, be excluded from entry into the United States for the term of said patent; and that, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers, such articles should be excluded from entry; and

5. that the bond provided for in subsection 337(g)(3) is determined by the Commission to be, as prescribed by the Secretary of the Treasury, in the amount of 100 percent of the value of the articles concerned, f.o.b. foreign port.

COMMISSION ORDER

Accordingly, *it is hereby ordered:*

1. That J & M Enterprises; Amerex International, Ltd. Sanyei New York Corp.; Wai Cheong Industrial Co., Ltd.; Minami Sangyo, Ltd.; G. C. Murphy Co.; Cuckoo Clock Mfg. Co., Inc.; Reliance Pen & Pencil Corp.; F. W. Woolworth Co.; Crest Industries Corp.; Henry Co.; T. chatani & Co., Ltd.; Osaka General Trading Co., Ltd.; Wing Tat Industrial Co.; Medi Mart; Maruyama Noboru Seisakusho K. K.; Wah Hing Plastic & Metal Ware Factory, Ltd.; Oriental Plastic Factory; Oriental Plastic Industrial Corp., Western Universal (H.K.), Ltd.; and Montgomery Ward & Co., Inc., are dismissed as respondents in the investigation [Motion Docket 30-4 and 30-6].

2. That the joint motion for summary determination of complainant and Commission investigative staff is granted [Motion Docket 30-5];

3. That display devices for photographs and the like, made in accordance with one or more of the claims of U.S. Letters Patent No. 3,774,332 are excluded from entry into the United States for the term of said patent except (1) as provided in paragraph 4 of this order, infra, or (2) as such importation is licensed by the holder of U.S. Letters Patent No. 3,774,332; and

4. That the articles ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 100 percent of the value of the articles, f.o.b. foreign port, from the day after the day this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves this action, or the President disapproves this action, but, in any event, not later than sixty (60) days after such day of receipt.

5. that this order will be published in the FEDERAL REGISTER and served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secrearty of the Treasury.

OPINION OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONERS GEORGE M. MOORE AND BILL ALBERGER

Our determination and order, supra, are primarily predicted upon the following bases:

1. The Commission has jurisdiction over the subject matter of the investigation and over the respondents named by the Commission in its notice of investigation (19 U.S.C. 1337).

2. Patent infringement has been held to be an "unfair method of competition and unfair act" for the purposes of section 337 of the Tariff Act of 1930, as amended (see, e.g., *In re Northern Pigment Co., et al.*, 71 F. 2d 447 (C.C.P.A. 1934) and 71 F. 2d 447, *In re Von Clemm*, 229 F. 2d 441 (C.C.P.A. 1955)).

3. Complainant is the owner of U.S. Letters Patent 3,774,332 by virtue of an assignment from the inventor, Marshall C. Schneider, filed with the U.S. Patent Office, March 9, 1971 (Recommended Determination, Finding B, p. 6). Complainant is therefore a proper party to bring a section 337 proceeding with infringement of said patent as the basis for an "unfair method of competition or unfair act."

4. U.S. Letters Patent No. 3,774,332 is a valid and enforceable patent for the purposes of section 337 (Recommended Determination, Findings 19-21, pp. 8-9). Per 35 U.S.C. 282, said patent is presumptively valid; respondents did not carry their burden of proving invalidity or unenforceability of said patent (Recommended Determination, pp. 8-9, 15; Supp. to Recommended Determination).

5. The accused infringing products which have been imported and sold in the United States directly and literally infringe the terms of claims 1, 2, and 3 of U.S. Letters Patent No. 3,774,332 (Recommended Determination, Finding G, p. 8).

6. Complainant and its subcontractors consitute a domestic industry for the purpose of section 337 by producing in the United States display devices covered by claims 1, 2, and 3 of U.S. Letters Patent No. 3,774,332 (Recommended Determination, pp. 8, 15). Said domestic industry is efficiently and economically operated (Recommended Determination, pp. 13-14).

7. The domestic industry has suffered substantial economic injury from the loss of sales and resultant loss of revenue by reason of the importation and sale of articles which infringe the claims of U.S. Letters Patent No. 3,774,332 (Recommended Determination, pp. 9-13).

8. On motion per CRPP section 210.50(b), movant is entitled to summary determination if the pleadings and any depositions, admissions on file, and affidavits show that there is no genuine issue as to any material facts and that the moving party is entitled to a summary determination as a matter of law. Our review of the record certified to us by the Presiding Officer does not reveal a genuine issue as to a material fact. Furthermore, the facts as found by the Presiding Officer and adopted in our opinion lead to our conclusion that the moving party is entitled to a summary determination as a matter of law.

9. Our consideration of the effect of exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers as required by section 337(d), does not lead us to the conclusion that an exclusion order should not be issued.

In order to further explain the commission's determination and order, we shall briefly comment upon three areas of concern in the discussion below:

I. The more pertinent patent-related issues raised during the course of the investigation respecting:

A. The "British Patent" (U.K. Patent No. 1,270,715);

B. The "Nyman Patent" (U.S. Letters Patent No. 3,703,405); and

C. Various allegations respecting the validity of the "Schneider Patent" (U.S. Letters Patent No. 3,774,332).

II. The Commission's consideration of the "public interest" factors of section 337(d) in determining to enter an exclusion order; and

III. Rationale for a bond of 100 percent of the value of the articles concerned, f.o.b. foreign port.

I. PATENT ISSUES

The display device which is the subject of the investigation was invented by Marshall C. Schneider and patent rights assigned by him to complainant. Upon application Serial No. 127,279, filed in the U.S. Patent Office on March 23, 1971, U.S. Letters Patent 3,774,332 was issued to complainant on November 27, 1973.

Title 35, United States Code, section 102, provides as follows:

A person shall be entitled to a patent unless:

(a) The invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the *invention* thereof by the applicant for patent, or

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the *application* for patent in the United States, * * * [emphasis added].

Accordingly, in order to create successfully a genuine issue of material fact as to the validity of complainant's patent for the purposes of CRPP section 210.50, a respondent or other party could, for instance, provide evidence of knowledge or use of the invention prior to the invention thereof by Marshall C. Schneider or evidence of the patent or description in a printed publication in this or a foreign country, or public use or sale in this country of the invention more than one year prior to the date of the application for the patent in the United States by Marshall C. Schneider. Such genuine issues of material fact do not appear in the record. The following three sections discuss those patent issues which were raised but which were not sufficient to constitute genuine issues of material fact in the context of CRPP Section 210.50, 19 U.S.C. 1337, and 35 U.S.C. §§ 102 and 282.

A. *The "British Patent" (U.K. Patent No. 1,270,715).* Application for U.S. Letters Patent 3,774,332 ("complainants' patent") was filed March 23, 1971. The first patenting and publication of the British patent was not until April 12, 1972 (Supp. Submission to Joint Motion of Complainant and Investigative Staff, memo in support, p. 3), too late to invalidate complainant's patent under 35 U.S.C. 102. Furthermore, even if the British patent had been filed sufficiently early for the purposes of 35 U.S.C. 102, it would not have affected the right of complainant to a patent, inasmuch as the British patent lacked identity of invention (Supp. Submission to Joint Motion of Complainant and Investigative Staff, Memorandum in Support, p. 3). Namely, the British invention is distinguishable by the absence of an inner box to support items for viewing from all six sides (Affidavit of Marshall C. Scheider, par. 4).

B. *The "Nyman Patent" (U.S. Letters Patent No. 3,703,405).* Questions were raised quite early as to the possibility that the Nyman patent anticipated the complainant's patent. However, such suggestions carry little convincing force when one considers that just over two months before complainant's patent was filed and searched, the same Patent Office examiner who considered complainant's patent also reviewed the Nyman patent (filed January 18, 1971). In fact, field search for complainant's patent included U.S. Class 40, subclass 152 and 152.1, with the Nyman patent classified in subclass 152 and the '332 patent in 152.1 (Joint Motion for Summary Determination of Complainant and Investigative Staff, Memorandum in Support, p. 6). It is highly unlikely that identical prior art would have been overlooked.

C. *Other patent issues.* During the course of the investigation certain respondents made assertions that several distinct types of display devices anticipated the claims of complainant's patent. First, it was advanced that the devices imported during 1968-1969 anticipated complainant's patent (Commission Oral Argument, p. 42, lines 5-8). Investigation subsequently revealed, however, that these display devices were identical to the Nyman patent. Since the Nyman patent appears not to have been anticipatory, neither were the display devices referred to by these respondents (Commission Oral Argument, p. 42, lines 16-21).

Second, it was indicated that display devices identical to those covered by the claims of complainant's patent (Commission Oral Argument, p. 33, line 8) were shipped from Hong Kong to the United States in December of 1970. While this statement is literally true, those shipments were of only sample devices. (Commission Oral Argument p. 32, line 12). The first commercial shipment of such display devices was not made until April 12, 1972 (Commission Oral Argument, p. 32, lines 13-14), a date which is too late to invalidate complainant's patent under U.S. law. In addition, it should be noted that suggestions of derivation are not persuasive in light of the affidavit of inventor Marshall C. Schneider that he had not visited Hong Kong before 1976, five full years after his application for a patent.

Finally, a respondent alleged that it had exported display cubes to the United States in March of 1971 (Joint Motion for Summary Determination of Complaint and Investigative Staff, Memorandum in Support, p. 7). Though the record contains a dearth of information about the structural features of these display devices, even assuming the identity thereof with those covered by complainant's patent, such exportation occurred at too late a date to affect the validity of Complainant's patent.

II. Public Interest Factors

Title 19 U.S.C. 1337(d) provides:

> If the Commission determines * * * that there is a violation * * * it shall direct that the articles concerned * * * be excluded * * * unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and the United States consumers, it finds that such articles should not be excluded from entry.

Oral argument advanced before the Commission indicates that the entry of an exclusion order will not adversely affect the public interest. The two most significant interests to be balanced in this case are the protection of a valid U.S. patent as opposed to a possible increase in consumer pricing.

Testimony before the Commission reveals that complainant possesses the productive capacity to meet domestic market demand (Commission Oral Argument p. 53, lines 16-17). Additionally, complainant is the holder of a vaild U.S. patent and is entitled to the remunerative benefits that normally accrue therefrom.

While, admittedly, consumers may pay a higher retail price for the product produced by complainant in light of a landed price differential of two-to-one (Commission Oral Argument p. 50, lines 4-7), it appears that the profit markup is a normal rather than a premium one (Commission Oral Argument p. 56-57). Moreover, consumer constraints prevent premium pricing. Plastic display devices are not essentials of life. If one is to abuse the patent monopoly granted one, a reduction in sales is sure to follow.

For these reasons, the Commission feels an exclusion order strikes the most appropriate balance between patent protection and consumer interests.

III. Bonding

In light of the fact that a two-to-one price differential exists between the landed price of the imported product and the sale price of the domestic product, the most efficacious bond would be a bond of 100 percent of the value of the articles, F.O.B. foreign port.

Opinion of Vice Chairman Joseph O. Parker and Commissioners Catherine Bedell and Italo H. Ablondi

The record in this proceeding establishes that after the institution of this proceeding, service of the complaint, and the receipt of answers from four respondents, the presiding officer issued a notice of a prehearing conference. Complainants and the Commission investigative staff appeared at this conference but no respondents entered an appearance. Thereafter, complainant and the Commission investigative staff filed a joint motion for summary determination, supported by a number of affidavits. The joint motion for summary determination and the affidavits were served upon all parties to the proceedings. No responses or opposing affidavits were filed by any respondents. On August 31, 1977, the presiding officer issued a recommended determination in which he determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, in the unauthorized importation into the United States, and in the sale, of certain display devices for photographs and the like, by reason of the fact that such devices infringe claims 1, 2, and 3 of United States Letters Patent No. 3,774,332, with the effect or tendency to destroy or substantially injure an industry, ef-

ficiently and economically operated in the United States, and recommended that the Commission grant the motion for summary determination. All named respondents were served with copies of the recommended determination of the presiding officer. No exceptions or alternative findings of fact and conclusions of law to the presiding officer's recommended determination were filed by any respondent. No respondent took any other action contesting the claim of the complainant.

On October 21, 1977, the Commission held a hearing for the purpose of oral argument on the recommended determination, public interest issues, and appropriate relief in the event the Commission determined that there is a violation of section 337. Notice of the above hearing was issued on October 5, 1977, and served on all parties to the investigation including all respondents; no respondent appeared or filed any written submission. Both complainant and the Commission investigative staff entered an appearance at the hearing and supported the recommended determination of the presiding officer and urged that an exclusion order be issued.

The affidavits in support of the joint motion for summary determination contain evidence which shows the importation of display devices for photographs which infringe complainant's U.S. patent. Such patent is entitled to the statutory presumption of validity. The respondents did not challenge the validity of the patent with any evidentiary showing. The affidavits also contain evidence showing that the effect or tendency of the infringing imports is to destroy or substantially injure an industry efficiently and economically operated in the United States. On the basis of the record in this proceeding, we determine that there is a violation of section 337 of the Tariff Act of 1930, as amended.

PUBLIC INTEREST FACTORS

Section 337(d) of the Tariff Act of 1930, as amended, requires that prior to the entry of an exclusion order, consideration be given to the effect of such an order upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

The Commission, after public notice, provided opportunity for oral hearing on these questions. Complainant appeared through its attorney, and the Commission's investigative attorney appeared on behalf of the Commission. Both counsel presented oral argument in support of the entry of an exclusion order. There was no appearance by any other governmental agency or any other person in opposition to the entry of an exclusion order. From the record in this proceeding, we have determined that there is no justifiable reason for not entering an exclusion order to remedy the violation found as a result of this proceeding. We therefore determine that the entry of an exclusion order is necessary to prevent the unfair acts of importation of the subject articles in violation of section 337 of the Tariff Act of 1930, as amended, and grant the joint motion for summary determination.

BONDING

In view of the price difference between the imported infringing article and the domestic products, we determine that a bond in the amount of 100 percent of the value of the imported article is warranted.

ADDENDUM

It should be noted that simultaneously with the issuance of this determination and order, the U.S. International Trade Commission has transmitted to the Secretary of the Treasury and the Commissioner of Customs a letter containing: (1) A description of claims 1, 2, and 3 of U.S. Letters Patent No. 3,774,332 as found in the Presiding Officer's Recommended Determination of August 31, 1977, Finding of Fact A, at page 5, and (2) a copy of the aforementioned patent, and (3) sample display devices constructed in accordance with the claims of said patent. The Commission has made such transmittal: (1) For the guidance of Customs officer; (2) for the purpose of facilitating enforcement of the Commission's order; and (3) for the purpose of fulfilling the notice requirements of section 337(d), of the Tariff Act of 1930, as amended. Copies of the letter of transmittal to the Secretary of the Treasury and Commissioner of Customs and copies of U.S. Letters Patent No. 3,774,332 are available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: January 12, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-1313 Filed 1-16-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-39]

CERTAIN LUGGAGE PRODUCTS

Preliminary Conference

Notice is hereby given that a preliminary conference will be held in connection with Investigation No. 337-TA-39, Certain Luggage Products, at 10 a.m. on Wednesday, January 25, 1978, in the ALJ Hearing Room, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on November 30, 1977 (42 FR 60962). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the prehearing conference and temporary relief hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this notice upon parties of record and shall publish this notice in the FEDERAL REGISTER.

Issued: January 11, 1978.

Judge MYRON R. RENICK,
Presiding Officer.

[FR Doc. 78-1312 Filed 1-16-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

U.S. v. GULF OIL CO.

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, a notice is hereby given that on December 21, 1977, a proposed consent decree in "United States v. Gulf Oil Company," was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed decree requires installation of pollution control equipment by July 1, 1979 and payment of a civil penalty of $15,000.

The Department of Justice will receive on or before February 16, 1978, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to "United States v. Gulf Oil Company," D.J. Ref. 90-5-1-1-770.

The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Pennsylvania, U.S. Courthouse, Philadelphia, Pa.; the Clerk of the District Court, Eastern District of Kansas, U.S. Courthouse, Philadelphia, Pa.; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. A copy of the proposed consent judgment may be ob-

tained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-1183 Filed 1-16-78; 8:45 am]

[4510-24]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL

Meeting

The regular winter meeting of the Business Research Advisory Council will be held at 9:30 a.m., February 15, 1978, at the New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., Room N-4437 (A, B, and C). The agenda for the meeting is as follows:

1. Chairman's opening remarks.
2. Commissioner's remarks.
3. A seminar on employment and unemployment measurement concepts;

(a) How does BLS measure employment and unemployment now? In the past? An overview of the household survey. A-1[1]—The measurement of employment and unemployment. A-12—Historical comparability in the production of U.S. labor force data.

(b) When is a working person unemployed? A-5[1]—The definition of full and part time. A-6—Persons working part time involuntarily for economic reasons.

(c) How to measure the pain of unemployment. A-3[1]—Discouraged workers. A-4—The measurement of labor market related economic hardship.

(d) Too young or too old to count? A-7[1]—The minimum age cutoff for labor force statistis. A-8—A possible maximum age cutoff for labor force statistics.

(e) What can we learn from foreign countries? A-11[1]—International comprisons of unemployment.

4. Other business.
5. Chairman's closing remarks.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on area code 202-523-1559.

Signed at Washington, D.C., this 9th day of January 1978.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc. 78-1297 Filed 1-16-78; 8:45 am]

[1] Issue paper designation.

[4510-28]

Office of the Secretary

"BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL"

On December 8, 1977, the International Trade Commission determined that increased imports of "Bolts, Nuts, and Large Screws of Iron or Steel" are a substantial cause of serious injury, or the threat thereof, to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 63481).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "Bolts, Nuts, and Large Screws of Iron or Steel." The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received thirty-three petitions for certification of eligibility for adjustment assistance from workers engaged in the production of bolts, nuts, and large screws of iron or steel. The Department certified nineteen cases and denied fourteen cases. As of September 30, 1977, 4,071 workers had received $5,122,761 in the form of trade readjustment allowances.

2. Employment of workers producing bolts, nuts, and large screws of iron or steel fell substantially in 1975 then dropped slightly in 1976 and the first half of 1977. Substantial layoffs in the next few months appear unlikely; however, continued erosion of employment levels in the coming year is possible.

3. The unemployment rates in most of the areas having bolts, nuts, and large screws producers are below the national unemployment rate of 6.6 percent (unadjusted) for September 1977. The reemployment prospects of most of the laid off workers in impacted areas are considered fair.

4. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the needs of most of the displaced workers during fiscal year 1978. In addition, the Employment and Training Administration, through the State Employment Services, has the authority to purchase additional training when current CETA training programs are overenrolled or when expenditures for fiscal year 1978 exceed approved funding levels.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-7694.

Signed at Washington, D.C. this 9th day of January 1978.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc. 78-1002 Filed 1-13-78; 8:45 am]

"HIGH-CARBON FERROCHROMIUM"

On December 1, 1977, the International Trade Commission determined that increased imports of "High-Carbon Ferrochromium" are a substantial cause of the threat of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 62050).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "High-Carbon Ferrochromium." The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received four petitions for certification of eligibility for adjustment assistance from workers engaged in the production of high carbon ferrochrome. The Department certified three cases and denied one case. As of September 30, 1977 the Department had paid $712,627 to 344 workers employed in plants producing high carbon ferrochrome.

2. After the decline in employment in 1975 of workers producing high carbon ferrochrome, employment partly recovered in 1976 and remained

relatively stable in the first half of 1977. In the coming year the stainless steel industry is expected to maintain an adequate level of demand for high carbon ferrochrome. It appears unlikely that there will be further layoffs by high carbon ferrochrome producers.

3. The unemployment rate in the areas having high carbon ferrochrome producers are all below the national unemployment rate of 6.6 percent (unadjusted) for September 1977. The reemployment prospects of most of the laid off workers in impacted areas are considered fair.

4. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the needs of most of the displaced workers during fiscal year 1978. During fiscal year 1977, the areas which experienced the most significant layoffs, eastern Ohio and Memphis, Tennessee, had actual levels of enrollment slightly less than the expected levels through the third quarter, and funding appears to have been adequate to meet training needs through the end of that fiscal year.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-7694.

Signed at Washington, D.C. this 9th day of January 1978.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc. 78-1003 Filed 1-16-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of January 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Centennial Development Co. (workers).	Salt Lake City, Utah	Dec. 12, 1977	Dec. 8, 1977	TA-W-2,829	Underground construction development work for copper mines.
Halltex Clothing Co. (ACTWU).	Hall, Tenn	Dec. 14, 1977	Dec. 12, 1977	TA-W-2,830	Men's suits, sportcoats, and vests.
Hyde Athletic Industries (workers).	Cambridge, Mass	Dec. 12, 1977	Dec. 8, 1977	TA-W-2,831	Roller skates and ice hockey skates.
Jo-Mars Sportswear, Inc. (workers).	Boston, Mass	Dec. 13, 1977	Dec. 7, 1977	TA-W-2,832	Ladies' sportswear.
Jones & Laughlin Steel Corp., Pittsburgh Works (USWA).	Pittsburgh, Pa	Dec. 8, 1977	Dec. 1, 1977	TA-W-2,833	Cold finished bars, hot rolled bars and shapes, cold rolled sheet and galvanized sheet.
Mister Dino (workers)	Los Angeles, Calif	Dec. 12, 1977	Nov. 30, 1977	TA-W-2,834	Ladies' coats.
Totes, Inc. (workers)	Dorchester, Mass	Dec. 5, 1977	Nov. 29, 1977	TA-W-2,835	Canvas tote bags.
U.S. Steel Corp., Waukegan Works (USWA).	Waukegan, Ill	Dec. 13, 1977	Nov. 15, 1977	TA-W-2,836	Stainless steel wire and carbon steel wire.
Union Carbide Corp., Metals Division (Oil, Chemical and Atomic Workers Union).	Alloy, W. Va	Dec. 21, 1977	Dec. 21, 1977	TA-W-2,837	Silicon metal, ferro-silicon, special silicon, silicomanganese, ferromanganese silicon medium and low carbon ferromanganese.

[FR Doc. 78-1001 Filed 1-16-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-1606 and 1607; TA-W-1611, 1612]

EVART PRODUCTS CO. EVART, MICH., AND COLEMAN PRODUCTS CO., COLEMAN, WIS., AND IRON RIVER, MICH.

Notice of Negative Determination Regarding Application for Reconsideration

On November 22, 1977, the American Motors Corp., the petitioner for workers and former workers of the abovementioned firms, requested administrative reconsideration of the Department of Labor's negative determinations regarding eligibility to apply for worker adjustment assistance. The petitioner subsequently submitted clarifying and additional information, the most recent submission being December 1, 1977. These negative determinations were published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57767 and 57769).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

1. If it appears, on the basis of facts not previously considered, that the de-

termination complained of was erroneous;

2. If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

3. If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

There are three issues of substance raised by the petitioner in these cases. First, the petitioner criticizes the market segmentation approach used by the Department of Labor to analyze whether or not there are increased imports of "like or directly competitive" articles within the meaning of section 222 of the Trade Act of 1974. In its investigation, the Department of Labor had classified the Pacer as a compact and had found that imports of compacts had not increased over the relevant period. The petitioner argues that the department of Labor erred in ignoring the effect of other "more comparable" European and Japanese-made vehicles on the Pacer.

The second issue concerns the criterion which the Department of Labor uses to determine whether auxiliary plants supplying component parts for automobiles (where the assembly workers have been certified) are substantially integrated into the production of those vehicles. The petitioner claims that there is no legal basis for the Department's application of this criterion to component workers.

The third issue raised by the petitioner is that by limiting its evaluation of the Trade Act certification criterion of import increases with respect to the AMC's subcompact Gremlin and compact Hornet to imports from Canada in an earlier case (TA-W-999), the Department neglected the impact of other Canadian and foreign-made imported automobiles on the production of AMC's U.S.-made Hornets and Gremlins. The petitioner claims that this alleged failure to analyze the impact of other foreign-made competitive cars contributed to the denial of certification to workers at Evart and Coleman.

On the first issue, the Department of Labor has reviewed the data and associated rationale submitted by the U.A.W. in its application. The Department continues to believe that its market segmentation system is an appropriate way to deal with the issue of "like or directly competitive" products in the context of the automobile industry.

The Department of Labor, in assigning the Pacer to the class of compact cars, followed the classification of a number of recognized authorities in the automotive industry. It based this classification on an amalgam of automobile characteristics.

The Department does not claim that there is no competition between automobiles in different classes such as the compact and the subcompact. What the department maintains, however, is that the cars in one class compete most directly with other cars within the same class. Specifically, however, the Department reaffirms its finding that imports of subcompacts are not "like or directly competitive" with the Pacer.

The petitioner's assertion that the Department of Labor omitted any analysis of the effects of imports of European and Japanese-made cars on the Pacer is incorrect. The Department evaluated the impact of all foreign-made compacts on the Pacer.

On the second issue, i.e., the criterion to assess whether or not components' producers are significantly integrated into the production of import-impacted automobiles, the Department of Labor believes that the petitioner has misinterpreted the purpose of that criterion. Some method is needed to deal with those cases where it is not possible to identify workers engaged in the production of components for specific automobiles, where the production of the automobiles is impacted by imports, and where there is every reason to believe that some of the unemployment or underemployment of components workers is also attributable to increased imports. Alternatives would be to deny all components workers or, as the petitioner suggests, to certify all components' workers. The latter would not be consistent with the intent of Congress to exclude from coverage workers whose separations would have occurred regardless of the level of imports, such as those resulting from competition, seasonal, cyclical or technological factors. The former alternative would be unfair to component workers separated because of increased imports.

As for the third issue, the petitioner correctly asserts that the Department in TA-W-999 limited its analysis of import impact on the U.S.-made Gremlin to imports of Gremlins made in Canada and on the U.S.-made Hornet to imports of Hornets made in Canada. Imports of the identical cars from Canada provided a sound basis for the certification of AMC's Gremlin and Hornet assembly workers. The Canada-made Gremlin and Hornet provided a one-for-one measure of import displacement for U.S.-made Gremlins and Hornets. Further, aggregate imports of compacts were not increasing either absolutely or relative to domestic production over the relevant time period. Although aggregate imports of subcompacts rose marginally relative to domestic production in the relevant time period, they fell significantly in absolute terms. At the same time, imports of AMC subcompacts were growing rapidly and represented a greater proportion of domestic AMC subcompact car production in the first three quarters of MY 1976, compared to the same period in MY 1975.

Conclusion

After review of the application for reconsideration and of the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decisions. The applications are therefore denied.

Signed at Washington, D.C., this 6th day of January 1978.

James T. Taylor,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-1298 Filed 1-16-78; 8:45 am]

[4510-27]

Wage and Hour Division

BALLET WEST

Application for Variation and Public Hearing

Notice is hereby given that Ballet West, P.O. Box 11336, Salt Lake City, Utah 84147, has made application pursuant to 29 CFR 505.3(b)(2) for a variation from the standards prescribed in 29 CFR 505.3(a) concerning the payment of prevailing minimum compensation for all professional performers employed on projects or productions which are financed in whole or in part by the National Endowment of the Arts.

The applicant is a recipient of several grants from the National Endowment of the Arts pursuant to the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951, et seq.) for both its home season and its touring season. As a recipient of these grants, the applicant must make assurances that it will compensate its professional personnel at the prevailing minimum compensation. The applicant contends that the rates it compensates its professional dancers should not have to be the rates established on a national scale by the American Guild of Musical Artists as required by § 505.3(a) of the Code of Federal Regulations, Part 29. Ballet West requests that it be permitted to pay the following rates to its dancers:

	Base rates (week)	
	1977-78	1978-79
Corps de Ballet	$150	$160
Soloist	190	200
Principal	230	240

It further maintains that these rates which coincide with the rates in a collective bargaining agreement between Ballet West and the Ballet West Dancers Association should be determined to be the prevailing minimum compensation in the eleven Western States in which this ballet regularly performs. In justification of this position, Ballet West contends that it is the only ballet company that performs on a regular basis in Utah, Idaho, Wyoming, Montana, New Mexico, Arizona, Nevada, Oregon, Washington, Colorado, and a portion of California, while other ballet companies perform in these States on an occassional basis. Ballet West contends that since Ballet West performs regularly in these areas, its rates are the prevailing minimum compensation.

In order to give all interested parties an opportunity to present supporting and contrary views and to assist the Administrator in reaching a decision on this request for a variation, the Administrator of the Wage and Hour Division, has determined that an informal hearing is desirable.

Accordingly, such hearing will be held on February 22, 1978, in room 7102, Federal Office Building, 125 South State Street, Salt Lake City, Utah 84138, at which time and place interested persons may testify on the Ballet West's request for a variation concerning the payment of prevailing minimum compensation for its dancers.

Beginning at 10 a.m. m.s.t. on February 22, 1978, the presiding officer will hold a prehearing conference in order to establish the order and time for the presentations and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the prehearing conference, which is open to the public. The public hearing will immediately follow the prehearing conference.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and two copies of all documents to be used should be submitted at the hearing.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and two copies of all documents to be used should be submitted at the hearing.

Persons who wish to submit data, views, or arguments, but who do not wish to attend the hearing, may mail such written comments along with two copies to Xavier M. Vela, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-3502, Washington, D.C. 20210, by February 17, 1978. Such comments will be submitted to the presiding officer for inclusion in the hearing record.

The presiding officer shall have all the powers necessary or appropriate to conduct a full and fair informal hearing, including the powers:

(a) To regulate the course of the hearing;
(b) To dispose of procedural requests, objections, and comparable matters;
(c) To confine the presentations to matters pertinent to the requested information;
(d) To regulate the conduct of those present at the hearing by appropriate means;
(e) To permit and to limit cross examination;
(f) In his discretion, to keep the record open for a short, stated period of time to receive written data from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding officer shall certify the record thereof to the Administrator of the Wage and Hour Division. Upon closing the record, the Administrator of the Wage and Hour Division shall, after consideration of the record and other pertinent information, issue a determination on the request for a variation.

A copy of the record or portions thereof as it becomes available will be open for public inspection and examination at the office of Xavier M. Vela, Administrator, Room S-3502, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, and the area office of the Wage and Hour Division located at Room 3207, Federal Office Building, 125 South State Street, Salt Lake City, Utah 84138. The entire record or any part thereof may be purchased as provided in 29 CFR 70.62(c) at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

Signed at Washington, D.C., on this 12th day of January 1978.

XAVIER M. VELA,
Administrator for the Wage and Hour Division.

[FR Doc. 78-1299 Filed 1-16-78; 8:45 am]

[4510-27]

[Administrative Order No. 653]

SPECIAL INDUSTRY COMMITTEE FOR ALL INDUSTRY IN AMERICAN SAMOA

Appointment; Convention; Notice of Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949-53 Comp., p. 1004) and 29 CFR 511, I hereby appoint special Industry Committee No. 13 for American Samoa.

2. Pusuant to section 6(a)(3) and section 8 of the Act, as amended (29 U.S.C. 206(a)(3), 208), reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and 29 CFR Part 511, I hereby:

(a) Convene the above-appointed industry committee.
(b) Refer to the industry committee the question of the minimum rate or rates for all industry in American Samoa to be paid under section 6(a)(3) of the Act, as amended.
(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industry and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the act.

The Committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on April 24, 1978, in the Conference Room of the Lyndon B. Johnson Tropical Medical Center, Faga'alu, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rates prescribed by sections 6(a) and 6(b) of the Act, as amended by the Fair Labor Standards Amendments of 1977. These rates are $2.65 during calendar year 1978, $2.90 during calendar year 1979, $3.10 during calendar year 1980, and $3.35 thereafter.

The committee shall recommend to the Administrator of the Wage and Hour division of the Department of Labor the highest minimum rate or rates of wages for such industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industry, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in such industry than may be determined for other employees in such industry, the committee shall recommend such reasonable classifications within such industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, which will not substan-

tially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within industry, in making such classifications and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. The Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information he has assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, as soon as it is completed. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part of the regulations will be available at the Office of the Governor in Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Each prehearing statement shall contain the data specified in §511.8 of the regulations and shall be filed not later than April 14, 1978. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, D.C., this 12th day of January 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-1300 Filed 1-16-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

LEGAL SERVICES OF EASTERN MICHIGAN, ET AL.

Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * *".

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. The Legal Services of Eastern Michigan in Flint, Mich. to serve Lapeer county.
2. Legal Aid of Western Michigan in Grand Rapids, Mich. to serve Newaygo and Mecosta counties.
3. Neighborhood Legal Aid Society in Richmond, Va. to serve the cities of Colonial Heights and Hopewell.
4. Smyth-Bland Legal Aid Society in Marion, Va. to serve the city of Bristol.

Interested persons are herby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Northern Virginia Regional Office, 1730 North Lynn Street, Suite 600, Arlington, Va. 22209.

THOMAS EHRLICH,
President.

[FR Doc. 78-1228 Filed 1-16-78; 8:45 am]

[6820-35]

NORTH COUNTRY LEGAL SERVICES, INC.

Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * *".

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

North Country Legal Services, Inc. in Upper Jay, N.Y. to serve the counties of Clinton, Essex, Franklin, Hamilton, and St. Lawrence.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, New York regional Office, 10 East 40th Street, New York, N.Y. 10016.

THOMAS EHRLICH,
President.

[FR Doc. 78-1229 Filed 1-16-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORP. OF ALABAMA

Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996 Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * *".

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

The Legal Services Corporation of Alabama in Montgomery, Ala. to serve Lauderdale, Colbert, Etowah, Macon, Bullock, Lee, Hale, Houston, and Henry counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

THOMAS EHRLICH,
President.

[FR Doc. 78—1230 Filed 1-16-78; 8:45 am]

[6820-35]

LAND OF LINCOLN LEGAL ASSISTANCE FOUNDATION AND EAST RIVER LEGAL SERVICES, INC.

Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least 30 days prior to the approval of

any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * *".

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Land of Lincoln Legal Assistance Foundation in Alton, Ill. to serve Adams, Pike, Hancock, Cole, Cumberland, Douglas, Moultrie, Shelby, Franklin, Randolph, Perry, Jersey, Calhoun, and Brown counties.
2. East River Legal Services, Inc. in Sioux Falls, S. Dak. to serve Yankton and Bon Homme counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill. 60604.

THOMAS EHRLICH,
President.

[FR Doc. 78-1231 Filed 1-16-78; 8:45 am]

[6820-35]

NORTHERN PENNSYLVANIA LEGAL SERVICES, INC.

Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1-07 (f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * *".

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Northern Pennsylvania Legal Services, Inc., in Scranton, Pa., to serve Susquehanna County, Pa.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Philadelphia Regional Office, 101 North 33rd Street, Suite 115, Philadelphia, Pa. 19104.

THOMAS EHRLICH,
President.

[FR Doc. 78-1232 Filed 1-16-78; 8:45 am]

[6820-35]

LEGAL AID OF WESTERN MISSOURI

Grants and Contracts

JANUARY 12, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid of Western Missouri in Kansas City, Mo., to serve Andrew, Clinton, DeKalb, Benton, Pettis, and Saline Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the regional office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill.

THOMAS EHRLICH,
President.

[FR Doc. 78-1286 Filed 1-16-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will hold a formal meeting on February 17, 1978, in the Federal Room of the Capital Hilton Hotel, located at 16th and K Streets NW., Washington, D.C. The meeting will begin at 9 a.m. and adjourn at 5 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda will cover a variety of issues concerned with the net employment effects of the public service employment programs of Title II and Title VI of the Comprehensive Employment and Training Act.

Members of the general public or other interested individuals may attend the Commission meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this tenth day of January 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-1296 Filed 1-16-78; 8:45 am]

[4510-30]

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will sponsor a working conference on organized labor's views on manpower policy. The conference will be held on February 3, 1978, in the Mount Vernon Room of the Sheraton Carlton Hotel, located at 16th and K Streets NW., Washington, D.C. The confer-

ence will begin at 9 a.m. and adjourn at 4:30 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda to be covered during the conference include: commitment to full employment and ways to achieve it; youth employment and unemployment; the delivery and efficacy of employment and training programs; the net employment effects of the local public works program; and a standby antirecessionary program.

The conference's objective is to obtain information from the union participants that will assist the Commission in furthering its development of recommendations on national manpower policy issues.

Members of the general public or other interested individuals may attend the Commission meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a wrtten presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this tenth day of January 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-1295 Filed 1-16-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Visual Arts Advisory Panel (Policy) to the National Council on the Arts will be held on February 2, 1978, from 9:30 a.m. to 5:30 p.m., and on February 3, 1978, from 9:30 a.m. to 5:30 p.m., in the Mandeville Suite of the Muir Campus of the University of California at San Diego, in La Jolla, Calif.

This meeting will be open to the public. The topic of discussion will be crafts policy.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts.

[FR Doc. 78-1267 Filed 1-16-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

DOMESTIC SAFEGUARDS MATTERS

Supporting Statement of Need for Research Studies and Technical Assistance

Section 1(c) of Pub. L. 95-209 (91 Stat. 1481) requires that no amount authorized to be appropriated for fiscal year 1978 for contracts for research, studies, and technical assistance on domestic safeguards matters may be used for such contracts "until a statement supporting the need for such research, study or technical assistance has been prepared and published by the Commisson." After considering the NRC needs to contract for research, studies and technical assistance in domestic safeguards matters, the Commission has concluded that such assistance is needed in the following areas:

A. MATERIAL ACCOUNTABILITY

Improve capability for controlling and maintaining accurate track of location and disposition of nuclear material.

Major FY 1978 Activities:

Improve methods of evaluating effectiveness of licensee accountability systems.

Assess accountability aspects of alternate fuel cycles.

Apply new techniques such as time series analysis, simulations, and non-destructive analysis to material measurement.

Develop improved inspection strategies, and support for inspection of licensee material measurement capability.

Develop support for preparation and publicaton of material accountability standards and guides.

B. PHYSICAL PROTECTION

Procedures and equipment to deter, detect, and prevent sabotage or theft of nuclear materials at fixed sites.

Major FY 1978 Activities:

Continue development of an evaluation procedure to systematically determine the effectiveness of physical protection at fixed sites.

Provide inspectors and evaluators with improved procedures and devices for assessing licensees' physical protection equipment.

Study impact of reactor design considerations on sabotage vulnerability.

Determine physical protection needs for byproduct material, high-level waste facilities, and alternate fuel cycles.

Develop support for review and evaluation of reactor physical security plans.

Provide improved criteria for training of facility guard forces.

Develop guides and standards for explosives/metal detection.

C. TRANSPORTATION

Procedures, systems, and equipment for the protection of nuclear materials in transit.

Major FY 1978 Activities:

Develop an evaluation procedure to systematically determine the effectiveness of material protection during transportation.

Conduct vulnerability assessment of transport routes.

Test the SECOM system for achieving secure communication.

D. THREAT ANALYSIS

Assessment of the scope, nature, and attributes of potential threats and possible resulting consequences.

Major FY 1978 Activities:

Assess facility vulnerabilities associated with internal conspiracies involving the security force.

Assemble a data base for rapid assessment of threats to the commercial nuclear industry.

E. CONTINGENCY PLANNING

Activities addressing the responsibilities of licensee and federal, state, and local agencies in dealing with commu-

nicated threats and with nuclear emergencies.

Major FY 1978 Activities:

Develop a capability for assessing communicated threats.

Assemble a data base to support the review and updating of facility contingency plans and to deal with actual incidents.

Develop improved guidance for the NRC Staff to assist licensees in developing contingency plans.

F. INFORMATION SYSTEMS

Activities associated with the development and maintenance of systems for automated storage and retrieval of safeguards information.

Major FY 1978 Activities:

Continue to assess present safeguards-related informational needs; continue to develop a computerized system to store and retrieve safeguards information for all NRC offices.

Continue operational support of the existing information system for tracking nuclear materials.

A document entitled "FY 78 Proposed Technical Assistance and Research Projects" for domestic safeguards matters which sets forth presently proposed projects in which contractual assistance will be utilized has been placed in the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 for public inspection and copying.

Dated at Washington, D.C., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-1109 Filed 1-16-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, ARKANSAS NUCLEAR ONE, UNIT NO. 2 SUBCOMMITTEE

Meeting

The ACRS Arkansas Nuclear One, Unit No. 2 Subcommittee, will hold a meeting on February 2, 1978, in Room 1046, 1717 H Street NW., Washington D.C. 20555, to continue its review of the application of the Arkansas Power & Light Co. for an operating license for Unit No. 2.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

THURSDAY, FEBRUARY 2, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Arkansas Power & Light Co., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsecton 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary R. Quittschreiber, telephone 202-634-1374, between 8:15 a.m. and 5:00 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Arkansas Polytechnic College, Russellville, Ark. 72801.

Dated: January 11, 1978.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc. 78-1208 Filed 1-16-78; 8:45 am]

[7590-01]

[Docket Nos. 50-387 and 50-388]

PENNSYLVANIA POWER & LIGHT CO., AND ALLEGHENY ELECTRIC COOPERATIVE

Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 1 to construction permit No. CPPR-101 and amendment No. 1 to construction permit No. CPPR-102 issued to the Pennsylvania Power & Light Co. These amendments reflect the purchase by Allegheny Electric Cooperative, Inc. (Allegheny), of a 10 percent ownership interest in the Susquehanna steam electric station, unit No. 1 and unit No. 2. The Susquehanna steam electric station is located in Salem Township, Luzerne County, Pa.

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 Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments.

Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 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 these amendments.

For further details with respect to this action, see: (1) The application for amendments transmitted by a letter, dated March 2, 1977, (2) amendment No. 1 to construction permits CPPR-101 and CPPR-102, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, located at 1717 H Street NW., Washington, D.C., and at the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, Pa. 18701.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 10th day of January 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-1209 Filed 1-16-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-522, STN 50-523]

PUGET SOUND POWER AND LIGHT CO., ET AL. (SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2)

Order Convening Prehearing Conference

The parties to this proceeding have conferred on a convenient date for convening a prehearing conference and have selected January 24, 1978.

Wherefore, *it is ordered*, in accordance with the Atomic Energy Act, as amended, and the rules of practice of the Nuclear Regulatory Commission, that a prehearing confernece shall convene at 9 a.m. on Tuesday, January 24, 1978, in Room 2866 of the New Federal Building, 915 Second Avenue, Seattle, Wash.

The subjects to be considered at the prehearing conference will include and principally relate to matters to be presented by the parties at contemplated two separate sessions of evidentiary hearings which will commence on the two dates of February 14th and March 6th, 1978. The February 14th session will consider nongeologic and nonseismic items that await further evidentiary presentations as reflected by the previous record made in this proceeding, such as health effects attributable to coal and nuclear fuel cycle alternatives, completion by the staff of cost-benefit analysis, if it is available, Ranney well collector data, and possible consideration of applicants' revised load projections. The March 6th session will consider the geologic and seismic concerns pertaining to the proposed Skagit site as indicated by the parties and reflected in the record.

The identification and availability of witnesses, as well as the prior preparation and presentation of statements intended to be offered as evidence, for both sessions of evidentiary hearings will be considered at the prehearing conference convening on January 24, 1978. No evidence nor statements by way of limited appearance will be received at the prehearing conference.

Issued: January 11, 1978, Bethesda, Md.

For the Atomic Safety and Licensing Board.

SAMUEL W. JENSCH,
Chairman.

[FR Doc. 78-1210 Filed 1-16-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON FLUID/HYDRAULIC DYNAMIC EFFECTS

Notice of Meeting

The ACRS Subcommittee on Fluid/Hydraulic Dynamic Effects will hold a meeting on January 31, 1978 at the Sheraton Inn, 9750 Airport Boulevard, Los Angeles, Calif. 90045 to discuss the status of the Mark III Containment Tests, and the effects of blowdown forces on reactor vessel supports.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

TUESDAY, JANUARY 31, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the General Electric Company, and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio, telephone 202-634-1920 between 8:15 a.m. and 5 p.m., EST.

Dated: January 16, 1978.

JOHN C. HOYLE,
Advisory Committee.

[FR Doc. 78-1423 Filed 1-16-78; 9:48 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquires about them and to comment on them.

The Privacy Act of 1974 requires the agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(O)). During the period December 12, 1977, through January 6, 1978 the Office of Management and Budget received the following reports on new (or revised systems of records).

COPYRIGHT OFFICE

System names:

(1) Recorded documents file.
(2) Appeal from refusal to register file.
(3) Freedom of Information Act requests and Privacy Act requests and disclosures file.
(4) Notice of intention to obtain compulsory license for making and distributing of phonorecords embodying nondramatic musical compositions file.
(5) Secondary transmission cable systems: Initial notice of identity and changes file.
(6) Cable systems subject to compulsory license: Statements of account.
(7) Cable system videotype transfer contracts file.
(8) Jukebox license record books.
(9) Unmailable jukebox certificates.
(10) Licensing division refund file.
(11) Voluntary licensing agreements file.
(12) Licensing division search report file.
(13) Licensing division unfinished business files (open and closed).

Report date:

December 9, 1977.

Point of contact:

Mr. Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Arlington, Va. 22202.

Summary:

These systems of records are used by the Copyright Office in carrying out

its responsibilities under the Copyright Act of 1976, including public search reports, registration of copyright claims, preparation of statistical reports, maintenance of public records, and preparation of reports to the Copyright Royalty Tribunal.

DEPARTMENT OF DEFENSE

System name:

Reports of Disposition of Personal Money Allowance and Position Allowances.

Report date:

December 21, 1977.

Point of contact:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

Summary:

This proposed system will enable the Chief of Naval Operations to review the disposition of personal money and position allowances to assure that they are being properly spent in accordance with the recipients' duties and responsibilities.

System name:

Personnel Radiation Exposure Records.

Report date:

December 23, 1977.

Point of contact:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

Summary:

The Defense Department proposes to alter this system by adding records on individuals who work at or visit Enewetak Atoll and individuals "known to enter a radiation environment at the Uniformed Services University of the Health Sciences."

DEPARTMENT OF TRANSPORTATION

System name:

Records of Official Time Granted Employees for Performing Representational Functions.

Report date:

December 30, 1977.

Point of contact:

Mr. Aubrey Robertson,
TAD-17,
U.S. Department of Transportation,
Washington, D.C. 20590.

Summary:

The proposed system of records is intended to record official time used by employees while representing other DOT employees and to assure that this time is reasonable and "beneficial to the agency and its employees."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

System names:

(1) Readership Surveys of Office of Research and Statistics (ORS) Publications (Statistics).
(2) Training and development awards for Vocational Education Personnel-Applications and Awards.
(3) Lump-sum Reimbursement Method for Physician Extenders Delivering Independent Medicare Services.

Report date:

December 30, 1977.

Point of contact:

Mr. Charles Miller, Acting Assistant Secretary for Management and Budget, Department of Health, Education and Welfare, Washington, D.C. 20201.

Summary:

The first system, Readership surveys of ORS Publications, will aid ORS in meeting the informational needs of the Social Security Administration. The second system will be used "to select the best qualified applicants for graduate training in a vocational educational leadership program and for training toward certification under Teacher Certification Awards." The third system is intended to provide data for use in determining the circumstances and extent to which Medicare, Medicaid, and other Federal health insurance programs should reimburse employers for physician extender services.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-1265 Filed 1-16-78; 8:45 am]

[3110-01]

PRESIDENT'S REORGANIZATION PROJECT

Reorganization Study of Natural Resources and Environmental Functions Extension of Deadline for Submission of Public Comments

JANUARY 13, 1978.

The President's Reorganization Project in the Office of Management and Budget has extended the period for receiving comments on its document entitled, "Reorganization Study of Natural Resources and Environmental Functions" published in the FEDERAL REGISTER (3101-01, Vol. 42 No. 243, December 19, 1977, Pg. 63665). The deadline for submission of comments is now February 14, 1978.

WILLIAM W. HARSCH,
Deputy Associate Director, Natural Resources/Environment Division.

[FR Doc. 78-1435 Filed 1-16-78; 11:02 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10088; 811-2195]

AMERICAN NATIONAL GROWTH FUND SHARE ACCUMULATION PLANS AND SECURITIES MANAGEMENT & RESEARCH, INC.

Filing of Application for an Order Declaring That the Plan Has Ceased To Be an Investment Company

JANUARY 10, 1978.

Notice is hereby given that American National Growth Fund Share Accumulation Plans ("Plan"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and the Plan's sponsor, Securities Management & Research, Inc. ("SM & R"), (SM & R and Plan are collectively referred to herein as "applicants"), Two Moody Plaza, Galveston, Tex. 77550, filed an application on December 1, 1977, and an amendment thereto on December 12, 1977, pursuant to section 8 (f) of the Act, for an order of the Commission declaring that the plan has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

The Plan was organized on May 10, 1971, pursuant to Texas law, as a systematic investment plan to facilitate purchases by investors of shares of American National Growth Fund ("Growth Fund"), registered under the Act as an open-end, diversified management investment company. The Moody National Bank of Galveston, by a custodian agreement dated May 10, 1971, served as the Plan's custodian. The Plan registered under the Act on May 10, 1971, and on that date it also filed a registration statement on form S-6 (File No. 2-41399) under the Securities Act of 1933. This registration statement was declared effective by the Commission on May 22, 1972.

Pursuant to the above registration statement, the Plan offered and sold accumulation plans to the public. However, because of a lack of investor

interest, SM & R determined in December of 1975, that the interests in the Plan should no longer be offered for sale to the public, and that the Plan should be dissolved. By a letter dated February 26, 1976, all Plan owners were solicited to terminate their participation in the Plan voluntarily and for their consent to liquidation of the Plan. All Plan owners agreed to terminate their participation and consented to liquidation. In the liquidation, each Plan owner received: (1) A pro rata distribution of the shares of the underlying Growth Fund, and (2) an additional number of Growth Fund shares equal to the difference between what the Plan owner could have purchased at the prescribed 8.5 percent (or other applicable) Growth Fund sales charge and what he actually purchased at the higher initial sales charges permitted by the Plan. The additional Growth Fund shares distributed to the former Plan owners were purchased by SM & R and did not result in any expense or loss to the Plan or to the Growth Fund.

After liquidation of the Plan, the custodian agreement with the Moody National Bank was terminated on May 4, 1976. The Plan currently has no assets or Plan owners, and does not have any liabilities or owe obligations to any person. Applicants are not now making and do not propose to make any public offering of interest in the Plan.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons 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 address stated above. Proof of service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as a matter 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. 78-1184 Filed 1-16-78; 8:45 am]

[8010-01]

[Release No. 14362; File No. SR-NASD-77-9]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

JANUARY 10,1978.

On June 13, 1977, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), and rule 19b-4 thereunder, 17 CFR 240.19b-4, a proposed rule change (the "proposal") to amend the NASD's Code of Arbitration Procedure (the "Code") to: (a) Liberalize the access provisions of the Code, (b) liberalize the provision setting forth the methods by which process may be served to commence a proceeding and by which the respondent may serve his answer, and (c) reduce, from five to three, the number of arbitrators in matters involving public customers in which the amount in controversy does not exceed $20,000.

Notice of the proposal (File No. SR-NASD-77-9) together with the terms of substance thereof was given by publication of a Commission release (Securities Exchange Act Release No. 13847 (August 10, 1977)) and by publication in the FEDERAL REGISTER (42 FR 41502 (August 17, 1977)).

The NASD, by letters dated December 1, 1977, and December 22, 1977, amended the proposal to: (a) Withdraw those section which would have liberalized the access provisions of the Code, and (b) withdraw all proposed changes in the requirements applicable to service of process and service of the respondent's answer except the proposed change to allow personal service. The NASD has stated that the purpose of the proposal, as so amended (the "amended proposal"), is to facilitate the arbitration process.

The Commission finds that the amended proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered national securities association, and, in particular, the requirements of section 15A of the Act and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the amended proposal 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. 78-1186 Filed 1-16-78; 8:45 am]

[8010-01]

[Release No. 14199; File Nos. SR-NYSE-77-32]

NEW YORK STOCK EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule

NOVEMBER 23, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975) notice is hereby given that on November 17, 1977, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10006, filed with the Commission copies of a proposed rule change. The proposed rule change would amend NYSE rules 91.10, 115A.20, 121, and 123 to conform with the record retention requirements contained in Commission rules 17a-3 and 17a-4 (17 CFR 240.17a-3, 4) under the Act.

Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of November 28, 1977. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-77-32.

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. Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed rule changes conform the record retention requirements of NYSE rules 91.10, 115A.20,

121, and 123 to those of Commission rules 17a-3 and 17a-4 which, in relevant parts, require members of national securities exchanges to keep, for a period of not less than three years, the first two years in an accessible place, "[a] memorandum, of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted", and that such memorandum show "the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation." The Commission has determined that it is in the public interest and for the protection of investors for the three year retention requirement to take effect immediately.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above 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. 78-1187 Filed 1-16-78; 8:45 am]

[8010-01]

[File No. 1-1208]

KNOTT HOTELS CORP.

Application and Opportunity for Hearing

JANUARY 6, 1978.

Notice is hereby given that Knott Hotels Corp. ("applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting applicant an exemption from the provisions of section 15(d) of the 1934 Act.

Section 15(d) provides that each issuer which has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the 1934 Act with respect to a security registered pursuant to section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt in whole or in part, any issuer or class of issuers from section 15(d) if the Commission finds, by reason of the number of public investors, the amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The applicant states, in part:

1. Applicant, a Delaware corporation, pursuant to a merger and through a chain of wholly owned subsidiaries, became a wholly owned subsidiary of Trust Houses Forte, Ltd., a United Kingdom corporation, on March 3, 1977. Trust Houses Forte, Ltd., has no securities publicly traded in the United States and is not subject to the filing or reporting requirements of the 1934 Act. The public shareholders of the applicant received cash for their shares.

2. Pursuant to section 15(d), applicant is obligated to file all periodic reports with the Commission which may be applicable to its current fiscal year ending December 31, 1977. This duty to file reports will cease in succeeding years pursuant to section 12(g)(4).

3. The applicant has no public shareholders.

4. The applicant's securities are not publicly traded.

Accordingly, the applicant believes that the granting of the exemption would not be inconsistent with any public interest or the protection of any investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than January 31, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-1185 Filed 1-16-78; 8:45 am]

[8010-01]

[File No. 81-281]

WARNER COMMUNICATIONS, INC.

Application and Opportunity for Hearing

JANUARY 9, 1978.

Notice is hereby given that Warner Communications Inc. ("applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Knickerbocker Toy Co., Inc., be granted an exemption from the provisions of sections 12(g), 13, 14, and 15(d) of that Act.

Section 12(g) of the 1934 Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding $1 million and a class of equity securities held of record by 500 or more persons.

Section 13 and 15(d) of the 1934 Act require that issuers of securities registered pursuant to section 12 or that have filed a registration statement that has become effective pursuant to the Securities Act of 1933, must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole, or in part, any issuer or class of issuers from the provisions of section 12(g), 13, 14, and 15(d) of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or otherwise, that such exemption is not inconsistent with the public interest or protection of investors.

The applicant states, in part:

1. Knickerbocker is incorporated under the laws of the State of New York.

2. Prior to the merger with applicant, Knickerbocker had one class of equity securities registered under the Securities Act of 1933.

3. Prior to the merger, Knickerbocker was subject to the provisions of section 15(d) of the 1934 Act and its common stock was registered pursuant to section 12(g) of the 1934 Act.

4. As a result of the merger, Knickerbocker became a 98 percent owned subsidiary of applicant.

Applicant believes that its request for an order exempting Knickerbocker from the provisions of section 12(g), 13, 14 and 15(d) of the 1934 Act is appropriate in view of the fact that applicant believes that the time, effort and expense involved in compliance with such provisions would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than February 3, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. 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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-1188 Filed 1-16-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1415]

CALIFORNIA

Declaration of Disaster Loan Area

Humboldt, Kern, and San Diego Counties and adjacent counties within the State of California constitute a disaster area as a result of damage caused by high winds, dust, rain, and hurricane-force winds which occurred on December 19-23, 1977. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on March 10, 1978, and for economic injury until the close of business on October 9, 1978 at:

Small Business Administration, District Office, 211 Main Street, San Francisco, Calif. 94105

Small Business Administration, District Office, 880 Front Street, Federal Building, Suite 4-S-33, San Diego, Calif. 92101

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 9, 1978.

PATRICIA M. DOHERTY,
Acting Administrator.

[FR Doc. 78-1225 Filed 1-16-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1416]

CALIFORNIA

Declaration of Disaster Loan Area

Mendocino County and adjacent counties within the State of California constitute a disaster area as a result of damage caused by heavy rains, high seas and windstorms which occurred on October 28-30, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 13, 1978, and for economic injury until the close of business on October 10, 1978, at:

Small Business Administration, District Office, 211 Main Street, San Francisco, Calif. 94105

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 10, 1978.

PATRICIA N. DOHERTY,
Acting Administrator.

[FR Doc. 78-1226 Filed 1-16-78; 8:45 am]

[8025-01]

REGION VIII—REGIONAL EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region VIII Executive Board will hold a public meeting at 1 p.m., Thursday, February 9, 1978, in Room 2240, Executive Tower Inn, 1405 Curtis Street, Denver, Colo., to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write of call Dean Lupkey, Regional Director, U.S. Small Business Administration, 1405 Curtis Street, Denver, Colo. 80202, 303-837-4021.

Dated: January 10, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-1224 Filed 1-16-78; 8:45 am]

[4810-40]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular, Public Debt Series No. 1-78]

TREASURY NOTES OF JANUARY 31, 1980, SERIES K-1980

Announcement of Auction

JANUARY 13, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,250,000,000 of U.S. securities, designated Treasury Notes of January 31, 1980, Series K-1980 (CUSIP No. 912827 HJ 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated January 31, 1978, and will bear interest from that date, payable on a semiannual basis on July 31, 1978, and each subsequent 6 months on January 31 and July 31, until the principal becomes payable. They will mature January 31, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of

1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., eastern standard time, Wednesday, January 18, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 17, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tender submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interst will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, January 31, 1978, at the Federal Reserve Bank, or Branch, or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, January 27, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, January 25, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the sentence will not be accepted unless they are payable at the applicable Federal Reserved Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required on the bidder for any difference between the face amount of securities presented and

the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-1376 Filed 1-13-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, review procedure and hearing rules, Station Committee on Educational Allowances that on February 10, 1978, at 1 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tenn., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Donahue Barber College, 302 South Main Street, Memphis, Tenn., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 9, 1978.

R. S. BIELAK,
Director, VA Regional Office.

[FR Doc. 78-1182 Filed 1-16-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[No. 566]

ASSIGNMENT OF HEARINGS

JANUARY 12, 1978.

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.

FF 497, Max Greunhut International, Inc., now assigned February 23, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 1515 (Sub-No. 228), Greyhound Lines, Inc., now assigned February 27, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 113678 (Sub-No. 699), Curtis, Inc., now being assigned February 22, 1978 (1 day), for hearing in Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140665 (Sub-No. 11), Prime, Inc., now assigned February 22, 1978, at Chicago, Ill., is postponed indefinitely.

MC 107012 (Sub-No. 238), North American Van Lines, Inc., now assigned February 7, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 114457 (Sub-No. 311), Dart Transit Co., now assigned February 7, 1978, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 119777 (Sub-No. 335), Ligon Specialized Hauler, Inc., now assigned February 8, 1978, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 113678 (Sub-No. 668), Curtis, Inc., now assigned February 13, 1978, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 16831 (Sub-No. 23), Mid Seven Transportation Co., now assigned February 7, 1978, at Chicago, Ill., will be held in Room 3855A, 230 South Dearborn Street.

MC 69116 (Sub-No. 191), Spector Freight System, Inc., now assigned February 9, 1978, at Chicago, Ill., will be held in Room 3619, 230 South Dearborn Street, and February 10, 1978, will be held in Room 3855A, 230 South Dearborn Street.

MC 119619 (Sub-No. 105), Distributors Service Co., now assigned February 13, 1978, at Chicago, Ill., will be held in Room 3855A, 230 South Dearborn Street.

MC 128273 (Sub-No. 253), Midwestern Distribution, Inc., now assigned February 7, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 140033 (Sub-No. 26), Cox Refrigerated Express, Inc., now assigned February 8, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC-F-13197, Jack C. Robinson, d.b.a. Robinson Freight Lines—Control—Cumberland Express, Inc., and MC-F-13236, Atlanta Motor Lines, Inc., et al. v. Cumberland Express, Inc., et al., now assigned February 13, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street, and March 13, 1978, continued hearing will be held in Room 305, 1252 West Peachtree Street NW., at Atlanta, Ga.

MC 100666 (Sub-No. 364), Melton Truck Lines, Inc., now assigned February 15, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 120761 (Sub-No. 20), Newman Bros. Trucking Co., now being assigned February 15, 1978 (3 days), for hearing at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 116915 (Sub-No. 30), Eck Miller Transportation Corp., now assigned March 7, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 118130 (Sub-No. 80), South Eastern Xpress, Inc., now assigned March 8, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 119777 (Sub-No. 338), Ligon Specialized Hauler, Inc., and MC 120761 (Sub-No. 27), Newman Bros. Trucking Co., now assigned March 9, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

I & S M 29710, general increase, December 1977, C.S.M.F.T.A., now being assigned March 7, 1978, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 119656 (Sub-No. 35), North Express, Inc.; MC 114552 (Sub-No. 141), Senn Trucking Co.; MC 43867 (Sub-No. 35), A. Leander McAlister Trucking Co.; and MC 108341 (Sub-No. 72), Moss Trucking Co., now being assigned January 31, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 106274 (Sub-No. 25), Raeford Trucking Co., now being assigned January 17, 1978, for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 134755 (Sub-No. 114), Charter Express, Inc., now being assigned February 16, 1978 (2 days), for hearing in Kansas City, Mo., in a hearing room to be later designated.

MC 57697 (Sub 9), Lester Smith Trucking, Inc., now assigned January 19, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, suite 1718, 1050 17th Street.

MC 117686 (Sub 172), Hirschbach Motor Lines, Inc., now assigned January 24, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC 136212 (Sub 22), Jensen Trucking Co., Inc., now assigned January 26, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom Suite 1718, 1050 17th Street.

MC 138328 (Sub 34), Clarence L. Werner, d.b.a. Werner Enterprises, now assigned January 23, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC 129631 (Sub 56), Pack Transport, Inc., now assigned January 17, 1978, at Salt Lake City, Utah, and will be held in Room 479, U.S. Post Office and Federal Courthouse, 350 South Main Street.

MC 129994 (Sub 24), Ray Bethers Trucking, Inc., now assigned January 18, 1978, at Salt Lake City, Utah, and will be held in Room 479, U.S. Post Office and Federal Courthouse, 350 South Main Street.

MC 74321 (Sub 130), B. F. Walker, Inc., now assigned January 30, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC-F-13271, Refrigerated Foods, Inc.—Purchase—Fast Freightways, Inc., now assigned February 1, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC 107839 (Sub 172), Denver-Albuquerque Motor Transit, Inc., now assigned January 17, 1978, at New Orleans, La., is canceled, application dismissed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-1292 Filed 1-16-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 12, 1978.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43488, Traffic Executive Association—Eastern Railroad, Agent's E.R. No. 3602, on property moving on class rates within official territory, and between points in official territory, on the one hand, and points in southern and western truck-line territories, on the other, in supplements 263, 137, and 213 to its tariffs E/S-1008, E-1009-A, and E/W-1010, ICC A-946 (Boin Series), C-391, and 4488 (Hinsch Series), respectively, to become effective February 4, 1978. Grounds for relief—Short-line distance formula and grouping.

FSA No. 43489, Southwestern Freight Bureau, Agent's No. B-722, on soda ash, from stations in Texas, to Chamblee, Ga., in its tariff 357-C, ICC 5212, to become effective February 12, 1978. Gounds for relief—Rate relationship.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-1291 Filed 1-16-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Board of Governors of the Federal Reserve System	1
National Railroad Passenger Corporation	2
Nuclear Regulatory Commission	3
Securities and Exchange Commission	4, 5

[6210-01]

1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, January 20, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal by the Federal Reserve Bank of Atlanta to solicit competitive bids for a construction contract for the new Miami branch building.

2. Proposed negotiation of a competitive purchase of computer equipment at the Federal Reserve Bank of Dallas.

3. Proposed negotiation of a competitive purchase of property by the Federal Reserve Bank of San Francisco.

4. Proposed negotiation of a competitive purchase of high-speed currency equipment for the Federal Reserve Banks and branches.

5. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

[S-104-78 Filed 1-13-78; 11:55 am]

2

NATIONAL RAILROAD PASSENGER CORPORATION.

BOARD OF DIRECTORS MEETING

In accordance with rule 4a. of appendix A of the bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on January 25, 1978.

A. The meeting will be held on Wednesday, January 25, 1978, in the Pierre Suite of the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza East SW., Washington, D.C., beginning at 9:30 a.m. The portion of the meeting beginning at 9:30 a.m. will be closed to the public, during which time the Board will consider agenda items Nos. 1 and 2, as identified below.

B. The meeting will be open to the public beginning at 10:15 a.m. starting with agenda item No. 3, as identified below.

C. The agenda items to be discussed at the meeting follow:

AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION, MEETING OF THE BOARD OF DIRECTORS, JANUARY 25, 1978

9:30 a.m.—Closed session.
1. Internal personnel matters.
2. Litigation matters.
10:15 a.m.—Open session.
3. Approval of minutes of regular meeting of December 14, 1977.
4. DOT restructuring study.
5. Commitment approval requests: 78-37—Recondition/dieselize derrick—NEC; 78-45—Rebuild four FL-9 locomotives; 78-46—Construct trackage, post road—Rensselaer, N.Y.; 78-48—Head end power conversion—Lake Shore Limited.
6. Board committee reports:
A. Organization and compensation.
B. Northeast corridor: (1) Proposed modifier master plan for NECIP; (2) conclusion of 1977 work program; (3) status of Woonasquatucket River bridge; (4) status of 1978 work program; (5) status of southwest corridor project; (6) labor situation.
C. Planning/equipment: (1) Baltimore-Washington International Station; (2) fiscal year 1978 supplemental—capital; (3) quarterly report—capital reprogramming.
7. President's reports:
A. Operations: (1) National operations; (2) operations support; (3) northeast corridor operations.
B. Marketing.
C. Government affairs.
D. Other.
8. Financial reports.
9. Approval of consulting contracts for computer system services.
10. Approval of Canadian liquor license.
11. New business.
12. Adjournment.

D. Inquiries regarding the information required to be made available to the public pursuant to appendix A of the Corporation's bylaws should be directed to the Corporate Secretary at 202-484-7679.

Dated: January 13, 1978.

ELYSE G. WANDER,
Corporate Secretary.

[S-101-78 Filed 1-13-78; 10:08 am]

[7590-01]

3

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Week of January 9, 1978.

CHANGES IN THE MEETINGS:

THURSDAY, JANUARY 12

2 p.m.—1. Appellate review in Midland. (Closed—exemptions 6 and 10). (Continued from 1-11-78.) (Approx. 45 min.) 2. License fees. (Approx. 1 hr.) (Public meeting.) (As announced.) 3. Affirmation items: Proposed rule on avoidance of contractor organizational conflict of interest (rescheduled from 1-4-78); recommendation for disposition of an FOIA appeal (cancelled).

CONTACT FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

JANUARY 12, 1978.

[S-102-78 Filed 1-13-78; 11:55 am]

[8010-01]

4

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 1173, January 6, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: The Commission will consider the following items at a closed meeting to be held on Thursday, January 12, 1978, at 3 p.m.: Formal orders of investigation; settlement of injunctive action; institution of injunctive action; consideration of stay.

The General Counsel of the Commission or his designee has certified

that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)A, and (10) and 17 CFR 200.402(a), (8), and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined to hold the meeting in closed session and determined that Commission business required consideration of the matters and that no earlier notice thereof was possible.

JANUARY 12, 1978.

[S-105-78 Filed 1-13-78; 11:55 am]

[8010-01]

5

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 1884, January 12, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: Additional item to be considered.

The Commission will consider the following additional item at the open meeting scheduled for Tuesday, January 17, 1978, at 10 a.m.:

Consideration of the notification of certain investment company registrants of an intention to disclose, pursuant to a Freedom of Information Act request, certain information contained in annual reports and the consideration of delegating authority to the Director of the Division of Investment Management to issue notices pursuant to future notices of this kind.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JANUARY 12, 1978.

[S-103-78 Filed 1-13-78; 11:55 am]

federal register

TUESDAY, JANUARY 17, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Definitions and General Considerations

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 207, 210, 225, 226, 501, 510, 514, 558]

[Docket No. 77N-0076]

NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Definitions and General Considerations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to redefine the articles used in medicated animal feeds. These amendments are proposed because of ambiguities in the terms as currently defined in FDA regulations and the meanings as used in the animal feed and animal drug industries. The proposal would adopt letter designations for the medicated feed articles.

DATES: Written comments to the Hearing Clerk by March 20, 1978.

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert P. Schmidt, Bureau of Veterinary Medicine (HFV-224), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3390.

SUPPLEMENTARY INFORMATION: A number of the current regulations affecting animal drugs resulted from application of the Federal Food, Drug, and Cosmetic Act, enacted in 1938, as it evolved before the passage of the Animal Drug Amendments of 1968 (Pub. L. 90-399). For example, section 201(g) of the Federal Food, Drug, and Cosmetic Act (21U.S.C. 321(g)), which defines the term "drug", does not distinguish between drugs intended for use in man or other animals, nor does section 201(p) of the act (21 U.S.C. 321(p)), which defines the term "new drug", distinguish between new drugs intended for use in man or other animals. Therefore, before enactment of the Animal Drug Amendments, new drugs intended for both man and other animals were subject to the preclearance provisions of section 505 of the act (21 U.S.C. 355). In 1945, Congress added section 507 to the act (21 U.S.C. 357) requiring the Secretary, pursuant to regulations promulgated by him, to certify batches of drugs composed wholly or partly of any kind of penicillin. This section has been amended several times to include streptomycin, chlortetracycline, bacitracin, chloramphenicol, and their derivatives. Again, no distinction was made in these provisions between the use of these drugs in man or other animals. Under authority granted by section 507 (c) of the act (21 U.S.C. 357(c)), however, the Commissioner of Food and Drugs exempted antibiotics that were added to animal feeds from the certification provisions if the antibiotics were labeled for specific conditions of use that were published in the regulations.

The Food Additives Amendment of 1958 applied to food additives intended for both man or other animals. This amendment added section 201(s) to the act (21 U.S.C. 321(s)), which defines the term "food additive" as any substance the intended use of which results or may reasonable be expected to result, directly, or indirectly, in its becoming a component or otherwise affecting the characteristics of any food. Thus, any drug added to food or feed of an animal was a food additive, and any drug capable of causing residues in the edible products of the food-producing animal was also considered to be a food additive because the residue from such drug would constitute a food additive in the edible products. Such drugs placed on the market following enactment of the Food Additives Amendment of 1958, could not be legally marketed unless a food additive regulation was promulgated providing for the drug's safe use or the drug was generally recognized as safe and, for those approved after October 10, 1962, effective.

Because animal drugs intended for use in animal feeds were subject to the preclearance provisions of three separate sections of the act and three distinct sets of procedural requirements, their administrative and preclearance provisions were overlapping, unduly complex and time consuming. The Animal Drug Amendments of 1968 were enacted to consolidate the various provisions and requirements applicable to animal drugs into one section of the act and to provide a coordinated, simplified procedure for their implementation. Throughout the lengthy proceedings leading to enactment of the Animal Drug Amendments, both the House and Senate reports noted that in many cases the requirements for preclearance of new drugs intended for use in animals were more complex than the preclearance procedures for drugs intended for use in man, and the need for simplification was continually stressed because the procedures then mandated by law led to long delays in the administrative process required for the preclearance of new animal drugs (Refs. 1-6). The Animal Drug Amendments added a new section—section 512 (21 U.S.C. 360b)—to the act, thereby consolidating into one section the various parts of the act that related to new drugs intended for use in animals, including those intended for use in animal feeds. Consequently, section 512 provides for separate, distinct requirements regarding regulation of new animal drugs and animal feeds bearing or containing new animal drugs.

New sections 201(w) and 201(x) of the act (21 U.S.C. 321(w) and 321(x)) were also added, defining the terms new animal drug and animal feed, respectively. For man and animals the definition of new articles of drug are essentially the same; however, the definition of a new animal drug includes antibiotics subject to certification. The definition of a new animal drug focuses on the article intended to affect the structure or function of animals and any components thereof. On the other hand, the definition of animal feed refers to articles that are intended for use as food for animals other than man and that are intended for use as a substantial source of nutrients in the diet. The term animal feed is not limited to a mixture that is intended to be the sole ration of the animal.

One consistent topic that emerges from a review of the legislative history of the Animal Drug Amendments is the intent to facilitate preclearance review of articles that were used in animal feeds (Refs. 1-6). Before passage of the animal drug amendments, an applicant, e.g., a drug company, was required to file a new drug application (NDA) and have the application approved for the drug's use in animals. If the Drug was an antibiotic subject to certification, an antibiotic Form 5 was required instead of an NDA. When the drug was to be administered to the animal through its feed or it left residues in the edible tissues of food-producing animals, a food additive petition was also required. Each required the applicant to demonstrate that the drug was safe when administered in animal feed. After the Drug Amendments of 1962, a demonstration of effectiveness was also required for drugs covered by both sections 505 and 507 of the act.

Medicated animal feeds have been primarily manufactured at commercial feed mills. These feeds contain animal drugs intended for prevention, cure, mitigation, or treatment of disease (therapeutic use) or intended to affect the structure or function of the animal (growth promotant and feed efficacy). Before enactment of the Animal Drug Amendments, each feed mill manufacturing a medicated feed was required to file an NDA containing authorization from the sponsor to refer to that basic NDA. For drugs covered by section 507 of the act the requirement that a Form 6 be filed

was waived under the provisions of that section. Feed mills that manufacture the finished feed constitute the final step in the commercial distribution of the drug product. Accordingly, the drug company holding an approved NDA for the new drug would authorize feed mills to incorporate the drug's basic safety and effectiveness data into the feed mill's NDA to facilitate manufacture of the medicated animal feed. Because this was an incorporation by reference of the data previously found to be satisfactory by the agency, the basic application was not normally reevaluated for each medicated feed application. Nevertheless, the overlapping statutory requirements and regulations added confusion and delay to the evaluation process without contributing to consumer protection or otherwise improving upon the conditions of the safe and effective use of the drug. For this reason. Congress amended the Federal Food, Drug, and Cosmetic Act in 1968 to differentiate between new animal drugs that are intended for use in a manner that is analogous to the use of drugs in humans, which are regulated solely as drugs, and new animal drugs intended for addition to animal feeds and in effect reformulated by feed mills, which are regulated as both drugs and food additives.

The congressional intent appears to have been to develop a new, separate, expeditious mechanism for reviewing and regulating animal drugs, particularly those used in medicated animal feeds. The history of the Animal Drug Amendments sets forth how this procedure is to function. Initially, a drug company is required to demonstrate, via adequate and well-controlled investigations, that the finished medicated feed article is safe and effective for use in animals. When a new animal drug application (NADA) for this use fo a new animal drug is approved, a regulation reflecting that approval is published in the FEDERAL REGISTER. The manufacture of the medicated feed is then regulated by use of the medicated feed application as provided under the provisions of section 512(m) of the act (21 U.S.C. 360b(m)). This regulatory machanism is analagous to the approach developed for regulating food additives, color additives, and certifiable antibiotics. Perhaps the most difficult task in effectively regulating the medicated animal feed industry, however, is identifying when an article is a medicated animal feed covered by sections 512 (b) and (m) of the act as opposed to an animal drug covered solely by section 512(b) of the act. The dividing line is difficult to establish, but the legislative history provides guidance. This indicates that Congress was concerned primarily with expediting the administrative process of approval without peopardizing the statutory safety requirements.

The Senate report (Ref. 1) identifies the most concentrated medicated animal feed as an article that must be diluted in a ratio of 1 to 100 per ton in an animal feed for safe use. This is defined in the regulations (21 CFR 558.2(b)(4)) as a feed premix. A premix is subject to the requirements of section 512(b) of the act, and thus requires an approved NADA before it can be subsequently remanufactured into what 21 CFR 558.3 (b) (1) through (3) defines as complete feed, feed supplements, and feed concentrates. These definitions were promulgated by the Commissioner in the FEDERAL REGISTER of July 29, 1964 (29 FR 10506), under section 409 of the act (21 U.S.C. 348), and they represent an attempt to facilitate the preclearance of these articles. Moreover, they established the various types of food additives and animal feed products that were applicable to the use of drugs in animal feeds. The terms were defined on the basis of safety considerations such as the concentration of the drug in each article, the intended use of that article, and the risk of harm associated with ingesting the article by the animal for food derived from the animal. The terms also represented what the agency believed to be the current state of the industry. Since 1964, the use of medicated animal feed and the nature of the animal drug industries have changed substantially, as have the types of additives now used, and thus the regulations no longer reflect the terms currently used for these additives in actual practice. Furthermore, ambiguities exist in these terms as defined in 21 CFR 558.3 and the meanings as used in the animal feed and animal drug industries. For these reasons the Commissioner is proposing to redefine the articles used in medicated animal feeds.

I. BASIS FOR PROPOSED ACTION

Section 558.3 (21 CFR 558.3) lists and defines the feed additive articles as complete feed, feed supplement, feed concentrate, and feed premix. Ambiguities have arisen because these commonly used terms have different meanings in the animal health field. To the animal scientist and many others in the industry, a "concentrate" is a concentrated source of energy, e.g., certain basal feedstuffs such as corn, soybeans, or milo. On the other hand, many in the feed industry, animal drug industry, and the regulatory agencies use the term "concentrate" to mean a concentrated is also known as an intermediate premix or custom premix containing only drugs, vitamins, and minerals. Thus, a concentrate for feed may be referred to by several terms, some of which have different meanings.

Similarly, a supplement is known by many in the agricultural industry as an article of feed that supplies protein, vitamins, or minerals to animal diets. These diets are otherwise nutritionally complete. Others view a supplement as being a dilute medicated feed concentrate. The term may also be used to refer to a supplemental medicated feed application.

A premix refers to a concentrated mix of any ingredient normally added to animal feed. It thus includes drugs, nutrients, and other substances. They are added for medicinal or nutritional purposes.

In addition to the practical difficulties arising from the various interpretations of terms, these terms are no longer consistent with the current industry practice, which complicates communication and regulation in the area. New forms of medicated feed articles, such as liquid feeds and blocks, have been developed since the original definitions were established; moreover, the industry has expanded, making different types of drugs and using different manufacturing procedures in larger and more complex feed mills. As a result, different ingredients and equipment are being used to manufacture medicated feed articles, with different intermediate concentrations of drugs. Because the industry has grown exensively, Food and Drug Administration has had to increase the regulatory resources in the medicated animal feed area. This has occurred while severe strains are being imposed on the agency's available resources. To improve the regulation of medicated animal feeds within available resources, the Commissioner is proposing to redefine the various types of medicated feed articles to conform to the current state of the art and to more clearly identify when a medicated feed article requires an approved NADA or an approved medicated feed application. When the original terms in 21 CFR 558.3 were promulgated, the American Feed Manufacturers Association (AFMA) suggested that the medicated feed articles be designated by letter. The commissioner has concluded that new terms are now necessary and that the nomenclature proposed by AFMA provides a practical system for clearly denominating the various types of medicated animal feeds. Thus, the Commissioner is proposing to designate the currently used medicated feed articles as Type A, Type B, Type C, or Type D medicated feed articles, depending upon the concentration of the drug in the article, its intended use, and its nutritional content.

II. PROPOSED DEFINITIONS

A. *Type A medicated feed article.* Under the proposed new definitions, the most concentrated article will be designated as Type A. This is a true drug premix for medicating animal

feed. The article will be solely for use in the manufacture of other medicated animal feed articles (animal feed bearing or containing a new animal drug), and it will, of course, be limited to use solely in accordance with its approved labeling. It will consist principally of a new animal drug in a diluent (carrier substance), and it must be further diluted with nutrient material to produce either a Type B, C, or D medicated feed article.

A proposed Type A medicated feed article is comparable to the present "feed additive premix." In the current regulations, a "premix" must be diluted so that not more than 100 pounds of the article is added to a basic feed to produce one ton of a medicated animal feed, and this feed must have been shown to be safe and effective in accordance with section 512(b) of the act for its labeled drug use. In such premixes, a large quantity of carrier substances is required. The premix is then mixed with basic nutrient feed(s) to produce the medicated animal feed. It is, however, no longer economically feasible to manufacture a premix that requires a large volume of carrier, for example, 90 to 95 pounds of calcium carbonate. A premix that is more concentrated and compact results in savings to users through reduced handling and storage costs. Currently manufactured drug premixes are more concentrated, requiring greater dilution. Today, seldom more than 1 to 5 pounds of premix are required to be added per ton of the nutrient ingredient to produce a finished feed.

The proposed definition of a Type A medicated feed article and the requirements for approval of its NADA have been develop to cover the regulatory problems that may arise from this current trend in the medicated feed industry. Accordingly, the Commissioner has concluded that the requirements being proposed are necessary to assure that the use of a Type A medicated feed article will be restricted to those conditions for which evidence has been submitted showing that the new animal drug is safe and effective as used in its final concentration in Types C and D medicated feed articles intended for use in finished feeds whether manufactured directly or through a Type B article.

The NADA for a Type A medicated feed article must include evidence that all Type B, C, and D medicated feed articles manufactured from it, whether directly or through a Type B article, are safe when used as directed. In addition, the NADA must include adequate and well-controlled investigations demonstrating that such Type C and D medicated feed articles are effective whether manufactured directly or through a Type B article. The NADA must also include manufacturing and stability data of the feed components and the finished feed itself. This information is required for all new animal drugs under section 512(b) of the act. Finally, the NADA must include representative labeling for all articles manufactured from the Type A article.

When the Type A article and the other medicated feed articles (Types B, C, and D) manufactured from it have been shown to be safe and effective under their labeled conditions of use in accordance with the requirements of section 512 of the act and the applicable regulations, the NADA will be approved. Notice of the approval and any applicable restrictions and conditions of use will be published in the FEDERAL REGISTER in accordance with section 512(i) of the act (21 U.S.C. 360b(i)). Consequently, a Type A medicated feed article requires an approved NADA and must be shipped in accordance with section 512(a)(1) of the act and 21 CFR 510.7.

B. *Type B medicated feed article.* The proposed Type B medicated feed article will be an animal feed bearing or containing a new animal drug that is intended for further manufacturing of other medicated feed articles (other B's, C's, or D's) only. The article will consist of a new animal drug(s) approved under section 512 (b) as a Type A medicated feed article, a carrier, and essential nutrients that are intended for nutritional use in subsequently manufactured medicated feed articles. A proposed Type B medicated feed article will conform to the statutory definition of animal feed because it contains substantial source of nutrients and is intended for use as such in an animal's diet. Before the article can be used in the feed of animals, however, it must be substantially diluted with a nutrient substance to form a Type C or D medicated feed article. The determinant for differentiating between the Type B and the other medicated feed articles will be the maximum amount of the Type B medicated feed article that may be added per ton of animal feed to produce a safe and effective Type C or D medicated feed article. This is a direct function of the concentration of the new animal drug and the essential nutrients in the Type B medicated feed article and the potential for that drug to produce unsafe (above tolerance) residues if the article is inadvertently fed to animals. There is no absolute weight limit on these articles because each has specific residue-producing characteristics, and these safety characteristics and any other proposed weight limits are specifically assessed in the NADA approval process in reviewing the Type A medicated feed article. These limitations are then published in 21 CFR Part 558 as special consideration for use of the Type A medicated feed article. In addition to being diluted to a Type C or D article, a Type B medicated feed article containing a new animal drug and essential nutrients can be further diluted to yield another Type B article that may contain an additional new animal drug approved as a Type A or Type B medicated feed article, or other essential nutrients. Again, the concentration of the new animal drug(s) and the ability of that article to produce unsafe residues will be the basis for establishing the distinction between Type B and Types C and D articles.

The NADA for the Type A medicated feed article must contain evidence showing that the finished medicated feed articles produced therefrom are safe and effective. If some vitamins, minerals, or other essential nutrients in the Type B article are intended for use as a drug in the animal feed, the NADA for the Type A article from which it is manufactured must contain evidence showing that the finished feeds satisfy the combination animal drug policy in § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)), i.e., the combination is more effective than the individual ingredients used alone.

The Type B medicated feed article will be similar to the present "feed concentrate." The definition of the Type B article, however, has been revised to encompass intermediate premixes. Intermediate premixes are manufactured by adding essential nutrients to new animal drug premixes. Many manufacturers contend that these intermediate premixes are not new animal drugs since with the addition of the essential nutrients these articles satisfy the statutory definition of animal feed. Because these manufacturers of intermidiate premixes do not make finished medicated feeds, they contend that they are not required to file medicated feed applications. The mechanism that will be established by this proposal to regulate those ostensibly hybrid articles will expand the agency's ability to monitor and regulate these manufacturers.

The agency's primary regulatory concern in the medicated animal feed area is the assurance that human food derived from animals fed medicated animal feed is safe. In the field, the resources available to monitor animal feeds are principally directed at the feed mills that manufacture finished medicated feeds. For this reason, manufacturers of the intermediate premixes have been able to avoid extensive regulatory scrutiny. These proposed revised definitions will bring the manufacturers of these articles to the direct attention of the agency and facilitate application of the current regulatory programs to them. This will also aid the regulatory effort against the manufacture of these articles during a time of limited availability of agency resources. Because a Type B

medicated feed article by definition will contain both new animal drugs and essential nutrients, it will comply with the statutory definition of animal feed. Manufacturers of these articles now have specific notice that they must file a medicated feed application (Form FD-1800) for each such article. In the medicated feed application, the manufacturer must cite the regulation under section 5123(i) of the act and other evidence that establishes the safety and effectiveness of the article before the application can be approved.

The basic medicated feed application will concurrently be amended to reflect the agency's revised program concerning manufacturers of the Type B articles. The current application requires the following basic information:

1. Name and address of the applicant;
2. The registration number and last date of registration of each mill as assigned pursuant to section 510 of the act;
3. Whether the submission is an original or supplemental application;
4. Identification of the drug(s) or premix used by name, potency, and manufacturer;
5. The species of animal(s) for which the medicated feed is intended;
6. The form of feed to be produced, i.e., mash, meal, crumbles, pellets, liquid, or other;
7. Whether the feed is to be packaged in bag or bulk;
8. Whether the feed is for sale or own use;
9. The brand name of the medicated feed, name of the drug(s) and finished level in feed, and amount of drug(s) or premix per ton;
10. Identification of the regulation(s) found in Part 558 (21 CFR Part 558) and published pursuant to section 512(i) of the act on which the request for approval of the medicated feed is based;
11. Whether the attached labeling is in draft or final printed form;
12. A statement of minimum and maximum assay permitted from the labeled amount of the drug;
13. If the application provides for manufacture of a medicated feed bearing or containing a new animal drug subject to the certification provisions of section 512(n) of the act, the appropriate fee as set forth in 21 CFR 514.60;
14. Identification of the authorized agent;
15. Applicant's name, title, and signature of responsible individual, and date.

Type B medicated feed articles will be limited to further manufacturing purposes only and will contain concentrated new animal drugs and essential nutrients. The latter includes vitamins and minerals in addition to other essential nutrients. Such ingredients must be covered either by a GRAS regulation, a food additive regulation, or if intended for therapeutic use, by an approved NADA. Because the article will have very concentrated levels of active ingredients, it is necessary to increase the assurance that the articles contain the precisely labeled amount of the new animal drug and essential nutrients. Only a minor deviation from the required content may result in considerable variations of concentration in medicated feed articles that are manufactured from the Type B articles. For this reason, random assays must be conducted more frequently for Type B articles than for other, less concentrated medicated feed articles (Types C and D). The medicated feed application for the manufacture of a Type B medicated feed article, therefore, must also contain the following additional information:

1. The master or batch formula used in the manufacture of the Type B medicated feed article. The batch formula shall provide for use of only recognized or approved feed ingredients;
2. Appropriate labeling providing adequate directions for the manufacture and use of other Type B, C, and/or D medicated feed articles;
3. A description of manufacturing facilities, including mixing time, equipment used, and the personnel responsible for the manufacturing operations;
4. Identification of any lot or batch numbering system used in the manufacturing, processing, packaging, and labeling of the Type B medicated feed article;
5. A commitment to perform representative assays, with results of assay being within the established assay limit, on the first three batches of the Type B article manufactured, additional samplings to be assayed at random intervals representing 5 percent of the annual production of each Type B medicated feed article covered by the application. The reports of assay shall be kept on the premises for not less than 1 year after the date of shipment of the medicated feed.

The applicable regulations will be amended accordingly.

When the medicated feed application is approved for a Type B medicated feed article, the holder of that approved application must then comply with the other requirements imposed by the statute and regulations. Manufacturers of Type B articles may sell them only in conformance with section 512(a)(1) of the Act and 21 CFR Part 558. Finally, the new animal drugs in the articles are covered by approved NADA's, which contain evidence demonstrating their safety and effectiveness; and the primary problems associated with intermediate premixes are independent of the questions about basic safety and effectiveness. The problems concern the ability to assure that these articles are properly formulated and manufactured to maintain their purity, stability, and potency so as to be safe and effective when formulated into finished medicated animal feed as directed by the approved labeling. On that basis, the Commissioner is proposing to redefine types of ingredients used in medicated animal feeds to regulate intermediate premixes as Type B medicated feed articles under section 512(m) of the act rather than section 512(b).

Because this is merely a proposal that will be subject to public comment and potential revision, the exact terms of the final order cannot be forecast; therefore, the Commissioner concludes that current policy for intermediate premixes should continue: Intermediate premixes are subject to the provisions of section 512(b) of the act. The manufacturers of intermediate premixes containing certain antibacterials were exempted from the requirement for filing an NADA and certain data under §558.15 (21 CFR 558.15); however, the Commissioner will prepare proposals to deal separately with those articles as he concludes the Antibiotics in Animal Feeds Program. Moreover, to assure an orderly transition period, the Commissioner will outline an implementation program for filing the appropriate applications for Type B medicated feed articles in the final order. Tentatively, he anticipates permitting a period of 90 days, following the promulgation of the final order, for the submission of the appropriate medicated feed applications for the manufacture of the Type B medicated feed article, unless it is determined that the Type B medicated feed article is not required to comply with the provisions of section 512(m) of the act. Under section 512(m)(2) of the act, the agency then has 90 days to review and approve, if appropriate, that application. This is essentially a 180-day implementation period. The Commissioner will then also provide a similar implementation period for filing and approving the appropriate applications for the manufacture of Types C and D medicated feed articles from Type B articles.

C. *Type C medicated feed article.* A proposed Type C medicated feed article is also a medicated animal feed bearing or containing a new animal drug. It will be produced by substantially diluting a Type A or Type B medicated feed article with other feed ingredients to a level for a use that is covered by an approved NADA. A Type C article may have two intended uses. It may be further diluted or mixed to produce Type D medicated feed articles, i.e., a complete feed; or it may be fed top dressed, undiluted, or

offered free-choice in conjunction with other animal feed to supplement the animal's total daily ration. The Type C article does not contain the animal's complete source of nutrients. When a proposed Type C article is fed undiluted, or offered free-choice in amounts not less than one-half pound per head per day and with other parts of the ration separately available, e.g., when spread over silage, the article shall not produce residues in food from food-producing animals that are unsafe within the meaning of section 512 of the act. This article is similar to the current "feed supplement," and the manufacture of Type C articles will require a medicated feed application approved under section 512(m) of the act unless otherwise specified, and the use of the new animal drug must be covered by a regulation published in 21 CFR Part 558. Any use approved prior to the effective date of these revised definitions providing for administration of less than one-half pound per head per day must be the subject of a supplemental application revising the conditions of use to conform to the definition of the Type C medicated feed article.

D. *Type D medicated feed article.* A Type D medicated feed article will be essentially identical to the current "complete feed." It will be for administration as the sole ration to an animal. Therefore, Type D medicated feed articles will contain the animal's total supply of essential nutrients (excluding hay and water) in addition to the new animal drug. Type D articles will be manufactured by diluting Types A, B, or C medicated feed articles with basic animal feed to provide the animal feed to provide the animal with its complete ration. The manufacture of Type D articles will require approval of a medicated feed application under section 512(m) of the act (21 U.S.C. 360b(m)), unless otherwise specified, and use of the new animal drug in the finished feed must be covered by a regulation published in 21 CFR Part 558.

III. Production Classes and Definitions

The Commissioner is also proposing to redefine terms pertaining to the various production classes of animals in the livestock and poultry industries. These industries also have vastly expanded over the past decade as they have developed sophisticated techniques for growing animals faster and more efficiently. The classes listed in 21 CRF 558.3 do not include many of the now common production classes of poultry, swine, and cattle, nor are definitions of the terms consistent with the contemporary meanings. New animal drug applications are filed and approved with labeling directed at the contemporary livestock practies. For this reason, the Commissioner is proposing to revise the terms and definitions to conform with current livestock and poultry practice (Refs. 7-9).

V. Conforming Amendments

Revising the definitions of medicated feed articles and production classes of animals has a substantial impact on numerous other regulations in the new animal drug area. Those affected regulations must be amended to permit rational effective regulation in this area.

A. *Section 501.110 Animal feed labeling; collective names for feed ingredients (21 CFR 501.110).* The section, promulgated under section 402(i)(2) of the act (21 U.S.C. 342(i)(2)), permits the use of collective names for feed ingredients in lieu of listing each feed ingredient by its common or usual name and in decreasing order of predominance as required by 21 CFR 501.4. The regulation was promulgated for the convenience of the parties involved and in recognition of the terms of the art used by industry. At present, §501.110 exempts all animal feed intended solely for use in livestock and poultry from the requirements of §501.4 when the feed conforms to other criteria as set forth in §501.110. A proposed Type B medicated feed article may be used only for the manufacture of other Type B, or C, or D articles. The Commissioner has found, however, that full ingredient information on the compostion of the Type B articles is necessary for the manufacturers of Type B, C, and D medicated feet articles. He is proposing to amend the regulation to require that Type B articles list all ingredients by their common or usual name in decreasing order of predominance as required by §501.4.

B. *Prior registration.* Under 21 CFR 207.20(c), manufacturers of both new animal drugs and medicated animal feeds must register pursuant to section 510 of the act (21 U.S.C. 360), and the registration is required prior to approval of any NADA's or medicated feed applications. Currently, only manufacturers of new animal drugs and premixes are required to submit a list of the drugs they commercially distribute under 21 CFR 207.20(a); manufacturers of medicated animal feeds are exempt from this requirement by section 510(g)(4) of the act (21 U.S.C. 360(g)(4)). Under the new proposed definitions, the information currently made available through drug listing will no longer be required for Type B articles because they will be medicated animal feeds, but the identical information previously obtained through drug listing will be available through the submission of a medicated feed application (Form FD-1800).

C. *Assays.* The laboratory control section of the current good manufacturing practice regulations for medicated animal feeds (21 CFR 225.58) requires periodic assays for drug content of the medicated animal feeds being manufactured at each feed mill. This was in lieu of the assay requirements that the Commissioner concludes are necessary for assuring the safe manufacture of Type B medicated feed articles. Therefore, the Commissioner is proposing to amend this section to require a more rigorous assay schedule for manufacturers of Type B articles than required for type C and D articles.

D. *Applications.* In 21 CFR 514.1, the formal procedures for filing an NADA under section 512(b) of the act are prescribed. The Commissioner is proposing to amend §514.1 to require that the applicant file all information necessary to determine that a medicated feed article is to be manufactured from a new animal drug covered by an approved NADA and that it will be safe and effective. For this reason, an NADA for a Type A medicated feed article must include representative labeling of medicated feed articles intended to be produced from it. Therefore, he proposes to amend §514.1(b)(3)(v)(*b*) accordingly.

In addition, a Type B medicated feed article may contain nutrients from a number of sources of concentrated protein, vitamins, and minerals. Because of the possible interactions among the added ingredients and between these ingredients and the new animal drug, the Commissioner has concluded that the stability of the drug must be established in representative formulations of Type B medicated feed articles. Therefore, the Commissioner is also proposing to amend §514.1(b)(5)(x) to require that the NADA include data or commitments to provide stability data covering representative formulations of Type B, C, and D medicated feed articles.

E. *Return of applications.* Section 558.4 (21 CFR 558.4) provides that medicated feed applications will be returned by the agency, i.e., the Bureau of Veterinary Medicine, without review if there is no regulation established in Part 558 that would provide a basis for its approval. The Commissioner is proposing a new section, §514.112 *Return of applications for animal feeds bearing or containing new animal drugs,* which incorporates the provisions of the current §558.4 *Approval of new animal drug applications for medicated feeds.*

F. *New feed terms.* All new animal drugs approved for use in animal feeds are codified in Subpart B of 21 CFR Part 558. The proposed definitions of medicated feed articles will require revision of the regulations to reflect the use of the new feed terms. The commissioner is proposing to amend this subpart accordingly.

The Commissioner has carefully considered the environmental effects

of the proposed regulation and because the proposed action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the FDA environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

REFERENCES

1. Senate Committee on Labor and Public Welfare, Animal Drug Amendments of 1968, S. Rep. No. 1308, 90th Cong., 2d Sess. (1968).
2. Hearings on H.R. 7655 et al. Before The Subcommittee on Public Health and Welfare of the House Committee on Interstate and Foreign Commerce, 89th Cong., 2d Sess., Ser. No. 89-36 (1966).
3. House Committee on Interstate and Foreign Commerce, Animal Drug Amendments of 1966, H.R. Rep. No. 2168, 89th Cong., 2d Sess. (1966).
4. Hearings on H.R. 3639 Before the Subcommittee on Public Health and Welfare of the House Comm. on Interstate and Foreign Commerce, 90th Cong., 1st Sess., Ser. No. 90-12 (1967).
5. House Committee on Interstate and Foreign Commerce. Animal Drug Amendments of 1967, H.R. Rep. No. 875, 90th Cong., 1st Sess. (1967).
6. Hearing on S. 1600 and H.R. 3639 Before the Subcommittee on Health of the Senate Comm. on Labor and Public Welfare, 90th Cong., 2d Sess. (1968).
7. Ensminger, M. E., "The Stockman's Handbook," Interstate Printers and Publishers, Inc., 3d Ed., 1965,
8. Carl, L. E., "Poultry Production," 10th Ed., 1966.
9. Marsden, S., "Turkey Production," USDA Handbook No. 393 (1971).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 207, 210, 225, 501, 510, 514, and 558 be amended as follows:

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

§ 207.20 [Amended]

1. Section 207.20 *Who must register and submit a drug list* is amended in paragraph (a) by revising the text in the last parenthetical statement to read "(including a Type B, C, or D medicated feed article as defined in § 558.3 of this chapter)".

PART 210—CURRENT GOOD MANUFACTURING PRACTICES IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS: GENERAL

2. In § 210.3, paragraphs (c) (1) and (2) are revised to read as follows:

§ 210.3 Definitions.

* * * * *

(c) * * *

(1) The term "medicated feed" means any Type B, C, or D medicated feed article as defined in § 558.3 of this chapter. The feed contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated feeds is subject to the requirements of Part 225 of this chapter.

(2) The term "medicated premix" means a Type A medicated feed article as defined in § 558.3 of this chapter. The article contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated premixes is subject to the requirements of Part 226 of this chapter.

* * * * *

PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

3. In § 225.58, by revising the first sentence of both paragraphs (b)(1) and (b)(2), and by adding paragraph (b)(3), to read as follows:

§ 225.58 Laboratory controls.

* * * * *

(b) * * *

(1) For Type C and D medicated feed articles requiring approved Medicated Feed Applications (Form FD-1800) for their manufacture and marketing. * * *

(2) For Type C and D medicated feed articles not requiring approved Medicated Feed Applications (Form FD-1800) for their manufacture and marketing. * * *

(3) For all Type B medicated feed articles, assays of the first three batches manufactured, followed thereafter by assay of random representative samples of not less than 5 percent of the annual production of each batch produced. The samples shall be collected and assayed by approved official methods. When any batch does not assay within limitations, each subsequent batch shall be assayed until five consecutive batches are within limitations. Reports of assay shall be kept on the premises for not less than 1 year after the date of shipment of the medicated feed.

* * * * *

PART 226—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED PREMIXES

§ 226.58 [Amended]

4. In § 226.58 *Laboratory controls*, by deleting paragraph (c)(2) and designating it "reserved."

PART 501—ANIMAL FOOD LABELING

5. In § 501.110, by revising paragraph (a)(1) to read as follows:

§ 501.110 Animal feed labeling; collective names for feed ingredients.

(a) * * *

(1) The animal feed is a Type C or D medicated feed article as defined in § 558.3 of this chapter and is intended solely for animal use.

* * * * *

PART 510—NEW ANIMAL DRUGS

In § 510.3, by adding new paragraph (m) to read as follows:

§ 510.3 Definitions and interpretations.

* * * * *

(m) The following terms apply to various production classes of animals:

(1) *In poultry* (i) "Broiler chickens" and "fryer chickens" are synonymous and denote chickens marketed for meat purposes only, usually at 6 to 9 weeks of age.

(ii) "Roaster chickens" are chickens marketed for meat purposes only, usually at 9 to 14 weeks of age.

(iii) "Replacement chickens" are chickens being raised for the purpose of replacing egg-producing chickens only.

(iv) "Laying chickens" are chickens producing eggs for food only.

(v) "Breeding chickens" are chickens producing eggs for hatching purposes only.

(vi) "Fryer-roaster turkeys" are turkeys of either sex marketed for meat purposes only, usually at 12 to 17 weeks of age.

(vii) "Young hen or tom turkeys" are turkeys marketed for meat purposes only, usually at 17 to 26 weeks of age.

(viii) "Replacement turkeys" are turkeys being raised for the purpose of replacing breeding turkeys only.

(ix) "Breeding turkeys" are turkeys producing eggs for hatching purposes only.

(2) *In swine.* (i) "Prestarting swine" are swine that weigh between 5 and 10 pounds.

(ii) "Starting swine" are swine that weigh between 11 and 40 pounds.

(iii) "Growing swine" are swine that weigh between 41 and 100 pounds.

(iv) "Finishing Swine" are swine that weigh between 101 pounds and market weight (180 to 250 pounds).

(v) "Growing-finishing swine" is a term that includes the weight ranges of both growing swine and finishing swine.

(vi) "Breeding swine" are swine used for reproductive purposes.

(3) *In ruminants.* (i) "Calves" are young bovine animals that have a live weight of less than 450 pounds and are less than 8 months of age.

(ii) "Cattle" are bovine animals over 8 months of age.

(*a*) "Feedlot cattle" are those that are maintained in feedlots and intended for slaughter.

(*b*) "Breeding cattle" are those that are intended primarily for breeding purposes.

(c) "Lactating dairy cows" are cows of dairy or dual purpose breeds that produce milk that is intended for human consumption.

(d) "Nonlactating or dry dairy cows" are cows of dairy or dual purpose breeds that temporarily are not producing milk.

(iii) "Lambs" are ovine animals from birth to 14 months of age.

(iv) "Breeding sheep" are ovine animals that are intended primarily for breeding purposes.

PART 514—NEW ANIMAL DRUG APPLICATIONS

7. Part 514 is amended:

a. In § 514.1 by revising paragraphs (b)(2)(c)(b) and (b)(5)(x) to read as follows:

§ 514.1 Applications.

* * * * *

(b) * * *
(3) * * *
(v) * * *

(b) Representative labeling proposed to be used for Type B, C, and D medicated feed articles manufactured from the new animal drug.

* * * * *

(5) * * *

(x) A complete description of, and data derived from, studies of the stability of the new animal drug, including information showing the suitability of the analytical methods used. A description of any additional stability studies underway or planned. Stability data for the finished dosage form of the new animal drug in the container in which it is to be marketed, including any proposed multiple-dose container, and, if it is to be put into solution at the time of dispensing, for the solution prepared as directed. If the new animal drug is intended for use in the manufacture of Type B, C, or D medicated feed articles as defined in § 558.3 of this chapter, stability data shall be derived from studies in which representative formulations of the medicated feed articles are used. These formulations include concentrated proteins, vitamins, and/or minerals. If the data indicate that an expiration date is needed to guarantee the identity, strength, quality, and purity of the new animal drug or Type B medicated feed article, the applicant shall propose such expiration date. If no expiration date is proposed, the applicant shall justify its absence.

* * * * *

b. By revising § 514.2 to read as follows:

§ 514.2 Applications for animal feeds bearing or containing new animal drugs.

(a) Applications to be filed under section 512(m) of the act shall be completed, signed, and submitted in triplicate in the form described in paragraphs (b) and (c) of this section.

(b) Each application for a Type B, C, or D medicated feed article shall be completed to include the following information:

(1) The name and address of the applicant.

(2) The registration number assigned pursuant to section 510 of the act and last date of registration of each mill.

(3) Whether the submission is an original or supplemental application.

(4) Identification of the drug(s) or Type A or B medicated feed article used by name, potency, and manufacturer.

(5) The species of animal(s) for which the feed is intended.

(6) The form of feed to be produced, i.e., mash, meal, crumbles, pellets, liquid, or other specified form.

(7) Whether the feed it to be packaged in bag or bulk.

(8) Whether the feed is for further manufacturing only or for sale or for own use (not for sale).

(9) The brand name of the medicated feed, name and level of the drug(s) in the finished feed, and the amount of Type A or D medicated feed article per ton contained therein.

(10) Identification of the regulation(s) found in Part 558 of this chapter and published pursuant to section 512(i) of the act on which the request for approval of the drug ingredients is based.

(11) The specimen label or labeling, with an indication whether draft or final copy, attached to each copy of the application. This shall consist of bag labels, invoice copy, bulk labels, and placards when applicable.

(12) A commitment to establish and maintain the required program of sampling and assaying to Type C and D medicated feed articles. The program shall include assay of at least three representative samples of medicated feed articles containing each drug or drug combination used in the establishment. These samples shall be collected and assayed by approved official methods at periodic intervals during the calendar year, unless otherwise specified in this chapter. At least one of these assays shall be performed on the first batch using the drug. Additional requirements for Type B medicated feed articles are set forth in paragraph (c)(6) of this section. If a medicated feed article contains a combination of drugs, only one of the drugs needs to be subject to analysis each time, provided the one tested is different from the one(s) previously tested.

(13) A statement of the minimum and maximum assay permitted from the labeled amount of the drug.

(14) A statement of the appropriate fee accompanying the application if it provides for the use of a new animal drug subject to the provisions of section 512(n) of the act as prescribed by § 514.60.

(15) Identification of agent authorized to act on behalf of applicant.

(16) The applicant's name, responsible individual's title and original signature, and date.

(c) If the application requsts approval for the manufacture of a Type B medicated feed article, it shall include in addition to the information required by paragraph (b) of this section, the following:

(1) A full list and quantity of each ingredient, i.e., the master formula.

(2) Appropriate specimen labeling of the article providing adequate directions for the manufacture and use of Type B, C, and/or D medicated feed articles.

(3) A description of the facilities used for the manufacture of the medicated feed article, including the following:

(i) A description of the mixing equipment, including name, type (vertical, horizontal, etc.), and capacity.

(ii) A description of the measuring equipment (scales or other metering devices) used, including the name, type, capacity, and accuracy or smallest graduation.

(4) A statement of the mixing time used to assure uniformity of the medicated feed.

(5) A designation of the person for supervision and control of the mixing operation.

(6) A commitment to establish and maintain the required program of sampling and assay. This program shall be in lieu of that required by paragraph (b) (12) of this section. The program shall consist of assays of the first three batches manufactured, followed thereafter by assay of random representative samples of not less than 5 percent of the annual production of each Type B medicated feed article covered by the application. The samples shall be collected and assayed by approved official methods. When any batch does not assay within limitations, each subsequent batch shall be assayed until five consecutive batches are within limitations. Reports of assay shall be kept on the premises for not less than 1 year after the date of shipment of the medicated feed.

(7) A designation of who will be performing the assays required by paragraph (c)(6) of this section, e.g., whether the assays are to be conducted by the applicant in their own laboratory, or the name and address of a designated laboratory.

(d) Upon approval, one copy of the application will be signed by an authorized employee of the Food and Drug

Administration designated by the Commissioner, and it will be returned to the applicant.

c. By adding new § 514.112 to read as follows:

§ 514.112 Return of applications for animal feeds bearing or containing new animal drugs.

Applications submitted pursuant to § 514.2 will be returned to the applicant if such applications are incomplete or inaccurate or do not contain an identification of the applicable regulation(s). These regulations, published pursuant to section 512(i) of the act, are found in Part 558 of this chapter, and are the basis on which approval of the application relies, as required by § 514.2(b)(10).

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

8. Part 558 is amended:

a. By revising § 558.3 to read as follows:

§ 558.3 Definitions and general considerations applicable to this part.

(a) Regulations established in this part provide for approved uses of drugs and combinations of drugs in animal feeds. Approved combinations of such drugs are specifically identified or incorporated by cross reference. Unless provided for by the regulations, a combination of two or more drugs is not approved.

(b) The following definitions apply to terms used in this part:

(1) A "Type A medicated feed article" is a new animal drug premix intended solely for use in the manufacture of Type B, C, or D medicated feed articles. It consists of a new animal drug(s), and carrier (e.g., calcium carbonate, rice hull, corn gluten) with or without other inactive ingredients. It must be further diluted before it can be safely administered to animals. Manufacture of a Type A medicated feed article requires an application approved under section 512(b) of the act.

(2) A "Type B medicated feed article" is an animal feed containing a new animal drug(s) and is intended solely for the manufacture of other medicated feed articles (Types B, C, or D), and is not for direct administration to the animal. It is manufactured by substantially diluting either a Type A or another Type B medicated feed article with nutrient ingredients. The Type B article must be further diluted with nutrients to produce either a Type C or Type D medicated feed article. The manufacture of a Type B article must be in accordance with a regulation in Part 558 providing for the use of the drug. Its manufacture must also be the subject of an application approved pursuant to section 512(m) of the act unless a waiver from the requirements of such application is included in the Part 558 regulation providing for the use of the drug.

(3) A "Type C medicated feed article" is an animal feed bearing or containing a new animal drug(s). It is produced by subtantially diluting a Type A or B medicated feed article with other feed ingredients to a use level that is covered by an approved NADA. A Type C article may be further diluted or mixed to produce another Type C medicated feed article or a Type D article, or it may be fed top dressed, on or offered free-choice in conjunction with other animal feed. It does not contain the animal's complete source of nutrients. When a Type C article is fed undiluted or offered free-choice, in amounts to not less than one-half pound per head per day, the article shall not produce residues in food from food-producing animals that are unsafe within the meaning of section 512 of the act. The manufacture of a Type C article must be in accordance with a regulation in Part 558 providing for the use of the drug. Its manufacture must also be the subject of an application approved pursuant to section 512(m) of the act unless a waiver from the requirements of such application is included in the Part 558 regulation providing for the use of the drug.

(4) A "Type D medicated feed article" is a complete animal feed bearing or containing a new animal drug(s) that is produced by diluting Type A, B, or C medicated feed articles with nutrients. It is intended to be fed as the sole ration to an animal, with or without added roughage. The manufacture of a Type D article must be in accordance with a regulation in Part 558 providing for the use of the drug. Its manufacture must also be the subject of an application approved pursuant to section 512(m) of the act unless a waiver from the requirements of such application is included in the Part 558 regulation providing for the use of the drug.

§ 558.4 [Revoked]

b. By revoking § 558.4.

c. By republishing Subpart B of Part 558 to reflect the proposed definitions and other considerations, as follows:

Subpart B—Specific New Animal Drugs for Use in Animal Feeds

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

558.25 2-Acetylamino-5-nitrothiazole.

(a) *Specifications.* Assay of not less than 96 percent by ultraviolet spectrophotometry.

(b) *Approvals.* (1) Type A medicated feed article: 10 percent to No. 010042 in § 510.600(c) of this chapter.

(c) *Related tolerances in edible products.* See § 556.20 of this chapter.

(d) *Conditions of use.* It is used in Type D medicated feed articles for turkeys as follows:

(1) *Amount per ton.* 136.2 grams (0.015 percent).

(i) *Indications for use.* Aid in prevention of blackhead (histomoniasis).

(ii) *Limitations.* Administer continuously starting 1 to 2 weeks before outbreaks usually occur: discontinue use 7 days before slaughter; use eggs from medicated birds for hatching purposes only.

(2) *Amount per ton.* 454 grams (0.05 percent).

(i) *Indications for use.* Aid in control of blackhead (histomoniasis).

(ii) *Limitations.* Administer for 2 weeks at first sign of outbreaks; discontinue use 7 days before slaughter; use eggs from medicated birds for hatching purposes only.

§ 558.35 Aklomide.

(a) *Chemical name.* 2-Chloro-4-nitrobenazmide.

(b) *Specifications.* (1) Minimum melting point 170°C.

(2) Moisture content not to exceed 1 percent.

(3) Purity not less than 98 percent on anhydrous basis.

(c) *Approvals.* Type A medicated feed articles to No. 017210 in § 510.600(c) of this chapter, as follows:

(1) 50 percent aklomide.

(2) 20 percent sulfanitran and 25 percent aklomide.

(3) 25 percent aklomide, 20 percent sulfanitran, and 5 percent roxarsone.

(4) 50 percent aklomide and 10 percent roxarsone.

(d) *Assay limits.* Type D medicated feed article: 85 to 120 percent of labeled amount.

(e) *Special considerations.* Type D medicated feed articles manufactured from Type C medicated feed articles that contain not more than 0.1 percent aklomide and conform to the requirements of this section are not required to comply with the provisions of section 512(m) of the act.

(f) *Related tolerances.* See § 556.30 of this chapter.

(g) *Conditions of use.* It is used in Type D medicated feed articles for chickens as follows:

(1) *Amount per ton.* Aklomide, 227 grams (0.025 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella* and *E. necatrix.*

(ii) *Limitations.* Not to be fed to birds laying eggs for human consumption.

(2) *Amount per ton.* Aklomide, 227 grams (0.025 percent) combined with sulfanitran, 181.6 grams (0.02 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix,* and *E. acervulina.*

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter.

(3) *Amount per ton.* Aklomide, 227 grams (0.025 percent) combined with

sulfanitran, 181.6 grams (0.02 percent) + roxarsone, 22.7-45.4 grams (0.0025-0.005 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix,* and *E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(ii) Limitations. Not to be fed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.

(4) *Amount per ton.* Aklomide, 227 grams (0.025 percent) combined with roxarsone, 22.7-45.4 grams (0.0025-0.005 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tennella,* and *E. necatrix;* growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to birds laying eggs for human consumption; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.

§ 558.45 Ammonium chloride, feed grade.

(a) *Chemical name.* Ammonium chloride.

(b) *Specifications.* The ammonium chloride conforms to the following:

(1) Assay after drying: 99 percent minimum.

(2) Sodium chloride: 0.6 percent maximum.

(3) Loss on drying: 0.5 percent maximum.

(4) Arsenic (as AS): 3 parts per million maximum.

(5) Heavy metals (as Pb): 10 parts per million maximum.

(c) *Approvals.* Type A medicated feed articles: 99 percent, see Nos. 011462 and 000018 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed articles: 85 to 115 percent of labeled amount.

(e) *Special considerations.* Maximum level permitted in a Type C medicated feed article is 8 percent for administration to cattle and 6 percent for administration to sheep.

(f) *Conditions of use.* It is used in Type C or D medicated feed article for cattle and sheep as follows:

(1) *Amount per day.* 21.3-35.5 grams (0.75-1.25 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For range cattle.

(2) *Amount per day.* 28.4-42.5 grams (1.0-1.5 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For fattening cattle.

(3) *Amount per day.* 7.1 grams (0.25 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For sheep.

§ 558.55 Amprolium.

(a) *Approvals.* (1) Type A medicated feed article: 25 percent to No. 000006 in § 510.600(c) of this chapter for use as in paragraph (e)(1) of this section.

(2) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 80 to 120 percent of labeled amount.

(c) *Special considerations.* (1) Do not use in Type B, C, or D articles containing bentonite.

(2) Type D medicated feed articles containing amprolium as the sole drug, processed from Type C medicated feed articles containing not more than 0.05 percent amprolium, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.50 of this chapter.

(e) *Conditions of use*—(1) *Calves.* It is used in Type C or D medicated feed articles as follows:

(*i*) *Amount.* 227 milligrams per 100 pounds (5 milligrams per kilogram) body weight per day.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria bovis* and *E. zurnii.*

(*b*) *Limitations.* Administer from a Type C medicated feed article containing from 0.05 to 0.5 percent amprolium with the usual amount of feed consumed in 1 day; feed for 21 days during periods of exposure or when experience indicates that coccidiosis is likely to be a hazard; withdraw 24 hours before slaughter; as sole source of amprolium.

(*ii*) *Amount.* 454 miligrams per 100 points (10 milligrams per kilogram) body weight per day.

(*ii*) *Indications for use.* As an aid in the treatment of coccidiosis caused by *Eimeria bovis* and *E. zurnii.*

(*b*) *Limitations.* Administer from a Type C medicated feed article containing from 0.05 to 0.5 percent amprolium with the usual amount of feed consumed in 1 day; feed for 5 days; for a satisfactory diagnosis, a microscopic examination of the feces should be done by a veterinarian or diagnostic laboratory before treatment; when treating outbreaks, the drug should be administered promptly after diagnosis is determined; withdraw 24 hours before slaughter; as sole source of amprolium.

(2) *Chickens and turkeys.* It is used in Type D medicated feed articles as follows:

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 36.3 to 113.5 (0.004 pct. to 0.0125 pct.).	.....	Replacement chickens; development of active immunity to coccidiosis.	Feed as follows	.....

Growing conditions	Up to 5 weeks of age	From 5 to 8 weeks of age	Over 8 weeks of age
	Amprolium grams per ton	*Amprolium grams per ton*	*Amprolium grams per ton*
Severe exposure to coccidiosis.	113.5 (0.0125 pct).	72.6-113.5 (0.008 pct to 0.0125 pct).	36.3-113.5 (0.004 pct to 0.0125 pct)
Moderate exposure to coccidiosis.	72.6-113.5 (0.008 pct to 0.0125 pct).	54.5-113.5 (0.006 pct to 0.0125 pct).	36.3-113.5 (0.004 pct to 0.0125 pct)
Slight exposure to coccidiosis.	36.3-113.5 (0.004 pct to 0.0125 pct).	36.3-113.5 (0.004 pct to 0.0125 pct).	36.3-113.5 (0.004 pct to 0.0125 pct)

Arsanilate sodium 90 (0.01 pct).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	.....
Arsanilic acid 90 (0.01 pct).	do	do	.....

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	do	do	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
		2. Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
	Bacitracin 100 to 200	Replacement chickens; development of active immunity to coccidiosis; treatmentof chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate or bacitracin zinc. Feed according to subtable in item (i).	
	Chlortetracycline 100 to 200.	Replacement chickens; development of active immunity to coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis..	Not to be fed to laying chickens; as chlortetracycline hydrochloride. Feed according to subtable in item (i).	
	Erythromycin 4.6 to 18.5.	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency.	As erythromycin thiocyanate. Feed according to subtable in item (i).	
	Erythromycin 92.5....	1. Replacement chickens; developmnt of active immunity to coccidiosis; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 24 h before slaughter. Feed according to subtable in item (i).	
		2. Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter. Feed according to subtable in item (i).	
	Erythromycin 185.....	Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter. Feed according to subtable in item (i).	
	Hygromycin B 8 to 12.	Replacement chickens; development of active immunity to coccidiosis; control of infestation of large round worms (*Ascaris Galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	Feed according to subtable in item (i)	
	Penicillin 2.4 to 50	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency.	As procaine penicillin. Food according to subtable in item (i).	
	Penicillin plus streptomycin 90 to 180 (of combination).	Replacement chickens; development of active immunity to coccidiosis; treatmentof chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis)..	Type D article contains 16.7% penicillin; as procaine penicillin; as streptomycin sulfate. Feed according to subtable in item (i).	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Replacement chickens; development of active immunity to coccidiosis; growth promotion, and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
(ii) 72.6 to 113.5 (0.008 pct to 0.0125 pct).	.....	Broiler chickens; prevention of coccidiosis caused by *Eimeria tenella* only.	Withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
	Arsanilate sodium 90 (0.01 pct).	Broiler chickens prevention of coccidiosis caused by *E. tenella* only; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct).	do	do	
	Bacitracin 100 to 200	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate, or zinc bacitracin	
	Chlortetracycline 100 to 200.	Broiler chickens; prevention of coccidiosis caused by *E. Tenella* only; treatmentof chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not for laying chickens; as chlortetracycline hydrochloride.	
	Hygromycin B 8 to 12.	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; control of infestations of large roundworms (*Heterakis gallinae*), and capillary worms (*Capilluria obsignata*).	Feed according to subtable in item (ii)	
	Penicillin 2.4 to 50	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; growth promotion and feed efficiency.	As procaine penicillin	
	Penicillin plus streptomycin 90 to 180 (of combination).	Treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D article contains 16.7 pct penicillin; as procaine penicillin; as streptomycin sulfate.	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Broiler chickens; prevention of coccidiosis caused by *E. tenella* only; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iii) 113.5 (0.0125 pct).	.....	1. Laying chickens; prevention of coccidiosis.....	.....	.....
		2. Laying chickens; treatment of coccidiosis.....	For moderate outbreaks of coccidiosis; administer for 2 weeks.	.....
	Bambermycins 1 to 3 plus roxarsone 22.8 to 34.1 (0.0025 to 0.00375 pct).	Broiler chickens; as an aid in the prevention of coccidiosis; for increased rate of weight gain, improved feed efficiency and improved pigmentation.	Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; roxarsone as provided by No. 07210 in sec. 510.600 (c) of this chapter, bambermycins by No. 000039; withdraw 5 d before slaughter..	.....
(iv) 113.5 to 227 (0.0125 to 0.025 pct).	.....	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis.	.....	.....
		2. Turkeys; prevention of coccidiosis.....	.....	.....
	Arsanilate sodium 90 (0.01 pct).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	.....
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do.....	.....
	Arsanilic acid 90 (0.01 pct).	1. Broiler chickens and replacement chickens where immunity to coccidiosisis not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do.....	.....
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do.....	.....
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosisis not desired; prevention of coccidiosis; growth promotion and feed efficiency; improved pigmentation.	do.....	.....
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress, withdraw 5 d before slaughter; as sole source of organic arsenic.	.....
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic.	.....
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	.....
	Bacitracin 4 to 50.....	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As bacitracin methylene disalicylate.....	.....
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency.	do.....	.....
	Bacitracin 100 to 200	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	do.....	.....
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis;treatment of chronic respiratory disease (air-sac infection), blue comb (nonsepcific infectious enteritis).	As bacitracin zinc.....	.....
	Bacitracin 100 to 500	Turkeys; prevention of coccidiosis; treatment of infectious sinusitis, blue comb (mud fever).	do.....	.....
	Bacitracin plus penicillin 100 to 500 (of combination).	do.....	Type D article contains 50 to 75 pct of bacitracin but not more than 125 g penicillin; as procaine penicillin; as bacitracin zinc.	.....
	Chlortetracycline 100 to 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis), prevention of synovitis.	Not for laying chickens, as chlortetracycline hydrochloride.	.....
	Erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As erythromycin thiocyanate.....	.....
	Erythromycin 92.5....	1. Broiler chickens and replacement chickens where immunity to coccidiosisis not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter.	.....
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 24 h before slaughter.....	.....

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Erythromycin 185.....	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter.	.....
	Hygromycin B 8 to 12.	Broiler chickens and replacement chickens where immunity to coccidiosisis not desired; prevention of coccidiosis; control of infestation of large roundworms (*Heterakis gallinae*) and capillary worms (*Capillaria obsignata*).	Feed according to subtable in item (i).....	.....
	Penicillin 2.4 to 50....	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As procaine penicillin.....	.....
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency.	do.....	.....
	Penicillin plus streptomycin 90 to 180 (of combination).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D article contains 16.7 pct penicillin; as procaine penicillin; as streptomycin sulfate.	.....
		2. Turkeys; prevention of coccidiosis; treatement of infectious sinusitis, blue comb (mud fever), hexamitiasis.	Type D article contains not less than 2.4 g of penicillin nor less than 12 g of streptomycin; as procaine penicillin; as streptomycin sulfate.	.....
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	.....
		2. Turkeys; prevention of coccidiosis; growth promotion.	do.....	.....
(v) 227 (0.0025 pct).	.....	Laying chickens; treatment of coccidiosis.....	For severe outbreaks of coccidiosis; administer for 2 weeks.	.....

§ 558.58 **Amprolium and ethopabate.**

(a) *Approvals.* Type A medicated feed articles; 0.15 percent amprolium, 0.004 percent ethopabate, and 100 g/ton bacitracin (as bacitracin methylene disalicylate) to No. 047019 in § 510.600(c) of this chapter, amprolium and ethopabate as provided by No. 000006, bacitracin (as bacitracin methylene disalicylate) as provided by No. 046573.

(b) *Assay limits.* (1) Amprolium: Type D medicated feed article: 80 to 120 percent of labeled amount.

(2) Ethopabate: Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing amprolium and ethopabate as the sole drugs, processed from Type C medicated feed articles containing not more than 0.05 percent amprolium and 0.016 percent ethopabate, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act. Do not use in Type B, C, or D articles containing bentonite.

(d) *Related tolerances.* See §§ 556.50 and 556.260 of this chapter.

(e) *Conditions of use.* (1) It is used in Type D medicated feed articles for chickens as follows:

Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) Amprolium 113.5 (0.0125 pct) and ethopabate 3.6 (0.0004 pct).	.....	Broiler chickens as an aid in the prevention of coccidiosis.	Not for laying hens; as sole source of amprolium.....	.....
(ii) Amprolium 113.5 (0.0125 pct) and ethopabate 3.6 (0.0004 pct).	Bambermycins 2 to 3 plus roxarsone 22.8 to 34.1 (0.0025 pct to 0.00375 pct).	Broiler chickens; as an aid in the prevention of coccidiosis, for increased rate of weight gain, improved feed efficiency, and pigmentation.	Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter, roxarsone by No. 017210, bambermycins by No. 000039; withdraw 5 d before slaughter.	.....
	Lincomycin 2 to 4	Broiler chickens; for increase in rate of weight gain; improved feed efficiency; as an aid in the prevention of coccidiosis.	Not for laying chickens; as lincomycin hydrochloride monohydrate; as sole source of amprolium.	.....
	Lincomycin 2 to 4 plus roxarsone 45.4 (0.005 pct).	Broiler chickens; for increase in rate of weight gain; improved feed efficiency and; pigmentation; as an aid in the prevention of coccidiosis.	Not for laying chickens; as lincomycin hydrochloride monohydrate; withdraw 5 d before slaughter; as sole source of amprolium and organic arsenic.	.....
	Roxarsone 45.4 (0.005 pct).	Broiler chickens; to aid in prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur; for increased rate of weight gain in broiler chickens raised in floor pens.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of amprolium; do not use as a treatment for outbreaks of coccidiosis; feed as sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; roxarsone as provided by No. 017210 in sec. 510.600(c) of this chapter; combinations as provided by No. 000006.	.....
(iii) Amprolium 113.5 (0.015 pct) and ethopabate 36.3 (0.004 pct).	.....	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur.	Not for chickens over 16 weeks of age.....	.....
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improve pigmentation.	Not for laying hens; withdraw 5 d before slaughter; as sole source of organic arsenic; as erythromycin thiocyanate.	.....
	Bacitracin 4 to 50.....	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; to aid in prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur; for	Not for chickens over 16 weeks of age; do not feed to laying chickens; as sole source of amprolium; not for use as a treatment for outbreaks of coccidiosis; as bacitracin methylene disalicylate as provided by No. 046573 or bacitracin zinc as provided by No. 012769 in sec.	.....

Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		increased rate of weight gain in broiler chickens raised in floor pens.	510.600(c) of this chapter; feed as the sole ration from the time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; combination as provided by No. 000006 in sec. 510.600(c) of this chapter.	
	Bacitracin 5 to 35 plus roxarsone 34 (0.00375 pct).	Broiler chickens; for increased rate of weight gain and as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur in broiler chickens raised in floor pens.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of amprolium and organic arsenic; do not use as a treatment for outbreaks of coccidiosis; feed as the sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter; bacitracin methylene disalicylate as provided by No. 046573 or bacitracin zinc as provided by No. 012769 in sec. 510.600(c) of this chapter; roxarsone as provided by No. 017210 in sec. 510.600(c) of this chapter; combination as provided by No. 000006 in sec. 510.600(c) of this chapter.	
	Bacitracin 20 to 35 plus roxarsone 34 (0.00375 pct).	Broiler chickens; for increased rate of weight gain, improved feed efficiency, and as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur in broiler chickens raised in floor pens.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of amprolium and organic arsenic; do not use as a treatment for outbreaks of coccidiosis; feed as the sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter; bacitracin methylene disalicylate as provided by No. 046573 in sec. 510.600(c) of this chapter; roxarsone as provided by No. 017210 in sec. 510.600(c) of this chapter; combination as provided by No. 000006 in sec. 510.600(c) of this chapter.	
	Bambermycins 1 to 3	Broiler chickens; as an aid in the prevention of coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur; for increased rate of weight gain, and improved feed efficiency.	Feed continuously as the sole ration; as sole source of amprolium; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter, bambermycins as provided by No. 000039 in sec. 510.600(c) of this chapter.	
	Bambermycins 1 to 3 plux roxarsone 22.8 to 34.1 (0.0025 pct to 0.00375 pct).	Broiler chickens; as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *Eimeria acervulina, E. maxima,* and *E. brunetti* is likely to occur; for increased rate of weight gain; improved feed efficiency, and improved pigmentation.	Feed continuously as the sole ration; as source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter, roxarsone by No. 017210, bambermycins by No. 000039. Withdraw 5 d before slaughter.	
	Erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	Not for laying hens; withdraw 24 h before slaughter; as erythromycin thiocyanate.	
(iv) Amprolium 113.5 to 227 (0.0125 to 0.025 pct) and ethopabate 3.6 (0.0004 pct).		For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis.	Not for laying hens	
	Arsanilic acid 90 (0.01 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	As sole source of organic arsenic; withdraw 5 d before slaughter; not for laying hens.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic; not for laying hens.	
		2. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza; growth promotion and feed efficiency; improving pigmentation.	Feed for 7 to 14 d; withdraw 5 h before slaughter; as sole source of organic arsenic; not for laying hens.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 4 to 50	For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As bacitracin methylene disalicylate; not for laying hens	
	Bacitracin 100 to 200	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	do	
		2. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As zinc bacitracin, not for laying hens	
	Bacitracin 4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	As bacitracin methylene disalicylate; not for laying hens; as sole source of organic arsenic; withdraw 5 d before slaughter.	

Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Chlortetracycline 100 to 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not for laying hens; as chlortetracycline hydrochloride	
	Chlortetracycline 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease caused by strains of *Mycoplasma gallisepticum* susceptible to chlortetracycline.	In low calcium Type D article containing 0.8 pct dietary calcium and 1.5 pct sodium sulfate; feed continuously as sole ration for not more than the 1st 3 weeks of life; not for laying hens.	
	Erythromycin 92.5	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; not for laying hens.	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza.	Feed to 7 to 14 d; withdraw 24 h before slaughter; not for laying hens.	
	Erythromycin 185	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter.	
	Penicillin 2.4 to 50	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Not for laying hens; as procaine penicillin	
	Penicillin plus streptomycin 90 to 180 (of combination).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D article contains 16.7 pct penicillin; as procaine penicillin; as streptomycin sulfate; not for laying hens.	
	Roxarsone 22.7 to 45.5 (0.0025 to 0.005 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	As sole source of organic arsenic; withdraw 5 d before slaughter; not for laying hens.	
(v) Amprolium 136.2 (0.015 pct) and ethopabate 3.6 (0.0004 pct).	Bacitracin 10	Broiler chickens, as an aid in the prevention of coccidiosis; growth promotion and feed efficiency.	Feed as sole ration; use as sole source of amprolium; do not feed to laying hens as bacitracin methylene disalicylate.	047019

§ 558.60 Arsanilate sodium.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article 75 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing arsanilate sodium as the sole drug and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use.* (1) It is used in this Type D medicated feed article for chickens and turkeys as follows:

(i) *Grams per ton.* 90 (0.01 percent).

(ii) *Indications for use.* For growth promotion and feed efficiency; improving pigmentation.

(iii) *Limitations.* Withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) Arsanilate sodium may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Zoalene in accordance with § 558.680.

§ 558.62 Arsanilic acid.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing arsanilic acid as the sole drug and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use*—(1) It is used in the Type D medicated feed article for chickens and turkeys as follows:

Arsanilic acid in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
90 (0.01 pct)		1. Chickens; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
		2. Turkeys; growth promotion and feed efficiency; improving pigmentation.	do	
	Erythromycin 4.6 to 18.5.	Chickens; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Erythromycin 92.5	1. Chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficienty; improving pigmentation.	As erythromycin thiocyanate; feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic.	
		2. Chickens; as an aid in the prevention of infections coryza; growth promotion and feed efficienty; improving pigmentation.	As erythromycin thiocyanate; feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Erythromycin 185	Chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	

(2) Arsanilic acid may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium and ethopabate in accordance with § 558.58.

(iii) bacitracin zinc in accordance with § 558.78.

(iv) Bacitracin and zoalene in accordance with § 558.680.

(v) Buquinolate in accordance with § 558.105.

(vi) Zoalene in accordance with § 558.680.

§ 558.76 Bacitracin methylene disalicylate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 70 to 130 percent of labeled amount.

(c) *Special considerations.* (1) The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

(2) Type D medicated feed articles containing bacitracin methylene disalicylate and conforming to the requirements of paragraph (e)(1) and (e)(2) are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.70 of this chapter.

(e) *Conditions of use.* (1) It is used as bacitracin methylene disalicylate in the Type D medicated feed article as follows:

Bacitracin methylene disalicylate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 4 to 50		Chickens, turkeys, and pheasants; growth promotion and feed efficiency.		
(ii) 5 to 20		Quail; not over 5 weeks of age; growth promotion and feed efficiency.		
(iii) 10 to 50		1. Swine; growth promotion and feed efficiency		
		2. Chickens; maintaining or increasing egg production.	Feed 50 g per ton 1st 4 to 6 weeks of egg production; 10 to 50 g per ton for remainder of egg-laying period.	
(iv) 50 to 100		1. Chickens; prevention of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis).		
		2. Swine; aid in prevention of bacterial swine enteritis.		
		3. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).		
(v) 100		1. Chickens; maintaining or increasing hatchability of eggs.		
		2. Chickens; during times of stress, prevention of diseases named in this section caused by organisms susceptible to bacitracin.		
		3. Chickens; prevention of early mortality of chicks due to susceptible organisms.	For chicks; in starter ration	
		4. Swine; treatment of bacterial swine enteritis		
100 of combination.	Penicillin	1. Chickens; maintaining or increasing hatchability of eggs.	Type D article combination containing 75 g of bacitracin plus 25 g of penicillin; as procaine penicillin.	
		2. Swine; treatment of bacterial swine enteritis	Type D article containing 50 to 75 pct of bacitracin; as procaine penicillin.	
(vi) 100 to 200		1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis).		
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).		
100 to 200 of combination.	Penicillin	1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis).	Type D article containing not less than 25 g of penicillin nor less than 50 g of bacitracin; as procaine penicillin.	
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	do	

(2) It is used as bacitracin methylene disalicylate in Type C or D medicated feed article for cattle as follows:

(i) *Amount.* 70 milligrams per head per day.

(a) *Indications for use.* Feedlot beef cattle; reduction in the number of liver condemnations due to abscesses.

(b) *Limitations.* Administer continously throughout the feeding period.

(ii) *Amount.* 250 milligrams per head per day.

(a) *Indications for use.* Feedlot beef cattle; reduction in the number of liver condemnations due to abscesses.

(b) *Limitations.* Administer continously for 5 days then discontinue for subsequent 25 days, repeat the pattern during the feeding period.

(3) it is used as bacitracin methylene disalicylate in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium with ethopabate in accordance with § 558.58.

(iii) Arsanilic acid with zoalene in accordance with § 558.680.

(iv) Carbarsone (not U.S.P.) in accordance with § 558.120.

(v) Diethlstilbestrol in accordance with § 558.225.

(vi) Hygromycin B in accordance with § 558.274.

(vii) Monensin in accordance with § 558.355.

§ 558.78 Bacitracin, zinc.

(a) *Approvals.* (1) Type A medicated feed article of 50 grams bacitracin per pound granted to No. 046573 in § 510.600(c) of this chapter.

(2) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 70 to 130 percent of labeled amount.

(c) *Special considerations.* (1) The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

(2) Type D medicated feed articles containing bacitracin zinc and conforming to the requirements of paragraph (e) (1) and (2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.70 of this chapter.

(e) *Conditions of use.* (1) It is used as zinc bacitracin in the Type D medicated feed article as follows:

Bacitracin, zinc in grams per ton	Combination (grams per ton)	Inidcations for use	Limitations	Sponsor
(i) 4 to 50		1. Chickens turkeys, and pheasants; growth promotion and feed efficiency.		
		2. Chickens, turkeys, and pheasants; for increased rate of weight gain and improved feed efficiency.	Growing chickens, turkeys, and pheasants	016573
(ii) 5 to 20		1. Quail; growth promotion and feed efficiency	In quail not over 5 weeks of age	
		2. Quail; for increased rate of weight gain and improved feed efficiency.	Growing quail; feed as Type D article to starting quail through 5 weeks of age.	016573
(iii) 10 to 50		1. Swine; growth promotion and feed efficiency		

Bacitracin, zinc in grams per ton	Combination (grams per ton)	Indications for use	Limitations	Sponsor
		2. Chickens; maintaining or increasing egg production.	Feed 50 g per ton 1st 4 to 6 weeks of egg production; 10 to 50 g per ton for remainder of egg-laying period.	
(iv) 50 to 100		1. Chickens; prevention of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis).		
		2. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).		
		3. Swine; aids in the prevention of bacterial swine enteritis.		
(v) 100		1. Chickens; maintaining or increasing hatchability of eggs.		
		2. Chickens; during times of stress, prevention of diseases named in this section caused by organisms susceptible to bacitracin.		
		3. Swine; treatment of bacterial swine enteritis		
100 of combination.	Penicillin	Swine; treatment of bacterial swine enteritis	Type D article containing 50 to 75 pct bacitracin; as procaine penicillin.	
(vi) 100 to 500		1. Chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis).		
		2. Chickens; prevention of early mortality of chicks due to susceptiable organisms.	For chicks; in starter feed	
		3. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).		
100 to 500 of combination.	Penicillin	1. Chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis).	Type D article containing not less than 50 pct nor more than 75 pct of bacitracin except that it contains not more than 125 g of penicillin; as procaine penicillin.	
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	do	

(2) It is used in a Type D medicated feed article for growing cattle, in an amount providing not less than 35 milligrams and not more than 70 milligrams per animal per day to aid in stimulating growth and improving feed efficiency.

(3) Bacitracin zinc is used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium with ethopabate in accordance with § 558.58.

(iii) Arsanilic acid and zoalene in accordance with § 558.680.

(iv) Diethylstilbestrol in accordance with § 558.225.

(v) Hygromycin B in accordance with § 558.274.

(vi) Monensin in accordance with § 558.355.

(vii) Zoalene in accordance with § 558.680.

§ 558.95 Bambermycins.

(a) *Specifications.* Bambermycins are the dried fermentation residues produced by the fermentation of *Streptomyces bamergiensis, Streptomyces ghanaensis, Streptomyces ederensis, Streptomyces geysiriensis,* and mutants and variants of these organisms.

(b) *Approvals.* Type A medicated feed article, 2 grams of bambermycins activity per pound of Type A article, see No. 000039 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type A medicated feed article: 90 to 110 percent of labeled amount of bambermycins activity. Type D medicated feed article: 70 to 130 percent of the labeled amount of bambermycins activity.

(d) [Reserved]

(e) *Conditions of use*—(1) *Broiler chicken Type D medicated feed article.* It is used as follows:

(i) *Amount per ton.* 1 to 2 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 113.5 grams (0.125 percent) plus ethopabate, 36.3 grams (.004 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina, E. maxima,* and *E. brunetti* is likely to occur. For increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter.

(iii) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina, E. maxima,* and E. *brunetti* is likely to occur. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(iv) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 3.63 grams (.0004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic: amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(v) *Amount per ton.* Bambermycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(vi) *Amount per ton.* Bambermycins, 1 gram plus monensin, 90 to 110 grams.

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as bambermycins provided by No. 000039 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Bambermycins, 1 gram plus monensin, 90 to 110 grams plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent).

(*a*) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *e. necatrix, E tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; use as sole source of organic arsenic; withdraw 5 days before

slaughter; as monensin sodium provided by No. 000986 in § 510,600(c) of this chapter; as bambermycins provided by No. 000039 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

(viii) *Amount per ton.* Bambermycins, 1 gram plus zoalene, 113.4 grams (0.0125 percent).

(*a*) *Indications for use.* As an aid in the prevention and control of coccidiosis; for increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Do not feed to chickens over 14 weeks of age; feed continuously as sole ration; zoalene as provided by No. 025700 in § 510.600(c) of this chapter.

(ix) *Amount per ton.* Bambermycins, 1 gram plus zoalene, 113.4 grams (0.0125 percent) plus roxarsone, 22.7 grams (0.0025 percent).

(*a*) *Indications for use.* As an aid in the prevention and control of coccidiosis; for increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* Do not feed to chickens over 14 weeks of age; feed continuously as sole ration; feed as sole source of organic arsenic; withdraw 5 days before slaughter; zoalene as provided by No. 025700, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter.

(2) *Growing-finishing swine Type D medicated feed article.* It is used as follows:

(i) *Amount per ton.* 2 grams.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(iii) *Limitations.* Feed continuously as sole ration.

(iv) *Special considerations.* Type D medicated feed articles processed from Type C medicated feed articles that contain up to 40 grams of bambermycins per ton and conform to the requirements of this section are not required to comply with the provisions of section 512(m) of the act.

§ 558.105 Buquinolate.

(a) *Chemical name.* Ethyl 4-hydroxy - 6, 7 - diisobutoxy - 3 - quinoline- carboxylate.

(b) *Approvals.* Type A medicated feed article: 16.5 and 22 percent, see No. 000947 and § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of the labeled amount.

(d) *Special considerations.* Maximum level permitted in Type D medicated feed article: 0.011 percent (100 grams per ton). Do not use in Type B, C, or D articles containing bentonite.

(e) *Related tolerances.* See § 556.90 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed article as follows:

(1) *Broiler or fryer chickens*—(i) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina.*

(*b*) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus arsanilic acid, 90 grams (0.01 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus roxarsone, 22.7–45.4 grams (0.0025–0.005 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iv) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus penicillin, 2.4–50 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; as procaine penicillin.

(v) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus bacitracin, 4–50 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; as zinc bacitracin or bacitracin methylene disalicylate.

(vi) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus penicillin + bacitracin, 3.6–50 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* growth promotion and feed efficiency.

(*b*) *Limitations.* Feed continuously as the sole ration; not less than 0.6 gram of penicillin nor less than 3 grams of bacitracin; as procaine penicillin plus bacitracin zinc or bacitracin methylene disalicylate.

(vii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus chlortetracycline, 200 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific enteritis); prevention of synovitis.

(*b*) *Limitations.* In low calcium type D article containing 0.8 percent dietary calcium and 1 percent to 1.5 percent sodium sulfate; to be fed continuously for not more than the first 21 days of life.

(viii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus lincomycin, 2–4 grams.

(*a*) *Indications for use.* For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused *E. tenella, E. maxima, E. necatrix, E. brunetti, E. acervulina.*

(*b*) *Limitations.* For broiler and fryer chickens; feed continuously as the sole ration.

(ix) *Amount per ton.* Buquinolate, 75–100 grams (0.00825–0.011 percent) plus roxarsone, 22.7–34.0 grams (0.0025–0.00375 percent).

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti, and E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Feed continuously as sole ration; withdrawn 5 days before slaughter; as sole course of organic arsenic; roxarsone as provided by No. 017210 in § 510.600(c) of this chapter.

(x) *Amount per ton.* Buquinolate, 100 grams (0.011 per cent) plus bacitracin, 4–15 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina;* increased rate of weight gain.

(*b*) *Limitations.* Feed continuously as the sole ration; as bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.

(xi) *Amount per ton.* Buquinolate, 100 grams (0.011 percent) combined with bacitracin, 19–35 grams.

(*a*) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. Brunetti,* and *E. acervulina;* increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* For floor raised broiler or fryer chickens, feed continuously as sole ration; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter.

(2) *Broiler, fryer, roaster or replacement chickens*—(i) *Amount per ton.* 75–100 grams (0.00825–0.011 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina.*

(iii) *Limitations.* Feed continuously as the sole ration; do not administer

over 75 grams per ton (0.00825 percent) to replacement chickens over 20 weeks of age.

(3) *Laying or breeding chickens*—(i) *Amount per ton.* 75 grams (0.00825 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti,* and *E. acervulina.*

(iii) *Limitations.* Feed to caged layers for 2 weeks following caging; feed continuously to layers and breeders kept on floors while in production or until marketed.

§ 558.115 Carbadox.

(a) *Chemical name.* Methyl 3-(2-quinoxalinylmethylene) carbazate-N^1,N^4-dioxide.

(b) *Approvals.* Type A medicated feed article: 2.2 percent (10 grams per pound), see No. 000069 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.

(d) *Related tolerances.* See § 556.100 of this chapter.

(e) *Special considerations.* (1) The manufacturer of Type D medicated feed articles processed from Type C medicated feed articles does not require compliance with the provisions of section 512(m) of the act when they contain:

(i) Not more than 0.055 percent (500 grams/ton) carbadox and used as provided in paragraph (f) (1) or (2) of this section.

(ii) Not more than 0.055 percent (500 grams/ton) carbadox with not more than 0.106 percent (960 grams/ton) pyrantel tartrate when produced from a fixed combination Type C medicated feed article or from individual Type C medicated feed article and used as provided in paragraph (f)(3) of this section.

(2) Do not use in Type B, C, or D articles containing bentonite.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per ton.* 10–25 grams (0.0011–0.00275 percent).

(i) *Indications for use.* For increase in rate of weight gain and improvement of feed efficiency.

(ii) *Limitations.* Do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in Type D medicated feed articles containing less than 15 percent crude protein.

(2) *Amount per ton.* 50 grams (0.0055 percent).

(i) *Indications for use.* For control of swine dysentery (vibrionic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); increase rate of weight gain and improve feed efficiency.

(ii) *Limitations.* Do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in Type D medicated feed articles containing less than 15 percent crude protein.

(3) *Amount per ton.* Carbadox 50 grams (0.0055 percent) plus pyrantel tartrate, 96 grams (0.0106 percent).

(i) *Indications for use.* For control of swine dysentery (vibrionic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Do not feed to swine over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severely debilitated animals; feed continuously as sole ration. Do not use in Type D medicated feed articles containing less than 15 percent crude protein.

§ 558.120 Carbarsone (not U.S.P.).

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 85 to 115 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing carbarsone as a sole drug, processed from Type C medicated feed articles containing not more than 0.225 percent carbarsone and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use.* (1) It is used in the Type D medicated feed articles for turkeys as follows:

(i) *Grams per ton.* 227 to 340.5 (0.025 to 0.0375 percent).

(*a*) *Indications for use.* As an aid in the prevention of blackhead.

(*b*) *Limitations.* Feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.

(ii) *Grams per ton.* 227 to 340.5 (0.025 to 0.0375 percent) carbarsone plus 10 grams per ton bacitracin from bacitracin methylene disalicylate.

(*a*) *Indications for use.* As an aid in the prevention of blackhead; for increased rate of weight gain.

(*b*) *Limitations.* Feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) Carbarsone (not U.S.P.) may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Zoalene in accordance with § 558.680.

(ii) [Reserved]

§ 558.126 Chlormadinone acetate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 75 to 125 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.130 of this chapter.

(e) *Conditions of use.* It is used as a Type D medicated feed article in or on feed for beef heifers and beef cows as follows:

(1) *Amount.* 10 milligrams per head per day.

(2) *Indications for use.* Synchronization of estrus (heat).

(3) *Limitations.* Administer in Type D articles for 18 days; do not administer within 28 days of slaughter; do not administer to cows producing milk for food.

§ 558.128 Chlortetracycline.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 70 to 130 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing chlortetracycline and conforming to the requirements of paragraph (e) (1), (2), and (3) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.150 of this chapter.

(e) *Conditions of use.* (1) It is used in Type D medicated feed articles for cockatoos, macaws, and parrots as follows:

(i) *Amount.* 10 milligrams per gram of mash.

(ii) *Indications for use.* Treatment of psittacine birds suspected or known to be infected with psittacosis.

(iii) *Limitations.* As chlortetracycline hydrochloride.

(2) It is used in the Type D medicated feed articles for laboratory mice as follows:

(i) *Amount.* Not less than 100 grams per ton of feed.

(ii) *Indications for use.* As an aid in reducing the incidence of bacterial diarrhea.

(3) It is used in Type C or D medicated feed articles as follows:

TABLE 1.—*In type D medicated feed articles*

Chlortetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 10 to 50		1. Chickens and turkeys; growth promotion and feed efficiency.	As chlortetracycline hydrochloride	
		2. Swine; growth promotion and feed efficiency	do	
(ii) 20 to 50		1. Lambs and growing sheep; growth promotion and feed efficiency.	do	

TABLE 1.—*In type D medicated feed articles*—Continued

Chlortetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		2. Mink; growth promotion and feed efficiency; as an aid in increasing pelt size.	do	
(iii) 50 to 100		1. Chickens and turkeys; during times of stress, for prevention of diseases named in this section caused by organisms susceptible to the indicated levels of the cycline salt.	do	
		2. For chickens; prevention of chronic respiratory disease (air-sac infection).	do	
		3. For turkeys; prevention of infectious sinusitis, hexamitiasis.	do	
		4. For laying chickens; maintaining or increasing egg production or hatchability of eggs.	do	
		5. For chicks; prevention of early mortality due to organisms susceptible to chlortetracycline.	do	
		6. Swine; maintenance of weight gain in the presence of atrophic rhinitis; reduction of the incidence of cervical abscesses; prevention of bacterial swine enteritis; prevention of bacterial swine enteritis during times of stress.	do	
(v) 100 to 200		1. For chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	
		2. For turkeys; treatment of blue comb (nonspecific infectious enteritis, mud fever), infectious sinusitis, hexamitiasis; prevention of synovitis.	As chlortetracycline hydrochloride	
		3. For chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride as follows; In low-calcium Type D article containing 0.8 pct dietary calcium, not to be fed continuously for more than 8 weeks; in low-calcium Type D article containing 0.40 pct to 0.55 pct dietary calcium, not to be fed continuously for more than 5 d; in low-calcium Type D article containing 0.8 pct dietary calcium and 1 pct to 1.5 pct sodium sulfate, to be fed continuously for not more than the 1st 3 weeks of life..	
		4. Swine; treatment of bacterial swine enteritis	As chlortetracycline hydrochloride	
(v) 200		1. For chickens; prevention and control of coccidiosis caused by *Eimeria necatrix* and *E. tenella.*	Not to be fed to laying chickens; as chlortetracycline hydrochloride in low-calcium Type D article containing 0.8 pct dietary calcium, not to be fed continuously for more than 8 weeks; in low-calcium Type D article containing 0.8 pct dietary calcium and 1.0 pct to 1.5 pct sodium sulfate, to be fed continuously for not more than the first 3 weeks of life.	
		2. For chickens; treatment of coccidiosis caused by *Eimeria necatrix* and *E. tenella.*	Not to be fed to laying chickens; as chlortetracycline hydrochloride in low-calcium Type D article containing 0.4 pct to 0.55 pct dietary calcium, not be fed continuously for more than 5 d.	
		3. For chickens; control of synovitis	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	
		4. For turkeys; control of synovitis	As chlortetracycline hydrochloride	
		5. For broiler chickens; treatment of chronic respiratory disease caused by strains of *Mycoplasma gallisepticum* susceptible to chlortetracycline.	In low-calcium Type D article containing 0.8 pct dietary calcium and 1.5 pct sodium sulfate; fed continuously as Type D article for not more than the last 3 weeks of life.	
		6. Swine; as an aid in reducing spread of leptospirosis.	Sole medication; as chlortetracycline hydrochloride	
(vi) 200 to 400		For ducks; for the control and treatment of fowl cholera caused by *Pasteurella multocida* susceptible to chlortetracycline.	Feed in Type D article to provide from 8 to 28 mg per pound of body weight per day depending upon age and severity of disease, for not more than 21 d; as the calcium complex of chlortetracycline equivalent to chlortetracycline hydrochloride.	
(vii) 400		1. For turkey poults not over 4 weeks of age; aid in reducing mortality due to paratyphoid caused by *Salmonella typhimurium.*	In low-calcium Type D article containing 1 pct total calcium with not less than 0.45 pct calcium from calcium sulfate; as chlortetracycline hydrochloride.	
		2. Swine; as an aid in reducing shedding of leptospirae; as an aid in reducing the abortion rate of swine and the mortality rate of newborn pigs when leptospirosis is present.	To be fed for 14 d as sole medication; as chlortetracycline hydrochloride.	
(viii) 500		For chickens; aid in the reduction of mortality due to *E. coli* infections susceptible to such treatment.	Not to be fed to laying chickens; as chlortetracyeline hydrochloride; in Type D article containing 0.8 pct dietary calcium; not to be fed continuously for more than 5 d; withdraw 24 h prior to slaughter.	

TABLE 2.—*In Type C or D medicated feed articles*

Chlortetracycline	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
Milligrams per pound of body weight per day				
(i) 0.1		For calves up to 250 lb in weight; growth promotion and feed efficiency.	In milk replacers or starter Type C or D articles	
(ii) 0.5		1. For beef cattle over 1,500 lb in weight; aid in prevention of anaplasmosis.	Not to be administered within 48 h of slaughter	
		2. For calves up to 250 lb in weight; aid in the prevention of bacterial diarrhea.	In milk replacers or starter Type C or D articles	
(iii) 5.0		For beef cattle; aid in the elimination of the carrier state of anaplasmosis.	Feed for 60 days; for use in the carrier state only; not to be fed within 10 d of slaughter. Labeling shall include a statement that a positive complement-fixation test at conclusion of a 60-d feeding period does not necessarily establish that anaplasmosis carrier state is still active. To positively establish that the carrier state has been eliminated, inject blood from a suspected carrier into a splenectomized (susceptible) calf.	

TABLE 2.—*In Type C or D medicated feed articles*—Continued

Chlortetracycline	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
Milligrams per head per day				
(iv) 25 to 70		For calves; growth promotion and feed efficientcy.		
(iv) 70		1. For feedlot cattle; aid in prevention of liver abscesses.		
		2. For beef cattle up to 700 lb in weight; aid in reduction of bacterial diarrhea; aid in prevention of foot rot.		
		3. For growing cattle; growth promotion and feed efficieny.		
(vi) 85		For horses up to 1 year of age; growth promotion and feed efficiency.	Do not slaughter for food purposes	
(vii) 100		For beef cattle over 700 lb in weight; aid in reduction of bacterial diarrhea; aid in prevention of foot rot.		
(viii) 350		1. For beef cattle; aid in prevention of bacterial pneumonia and shipping fever (hemorrhagic septicemia); aid in reduction of losses due to respiratory infection (infectious rhinotracheitis, shipping fever complex).	Not to be administered within 48 h of slaughter	
		2. For beef cattle up to 700 lb in weight; aid in prevention of anaplasmosis.	do	
	Sulfamethazine 350	For beef cattle; aid in the maintenance of weight gains in the presence of respiratory disease such as shipping fever.	Feed for 28 d; withdraw 7 d prior to slaughter	
(ix) 500		For beef cattle 700 to 1,000 lb in weight; aid in prevention of anaplasmosis.	Not to be administered within 48 h of salughter	
(x) 750		For beef cattle 1,000 to 1,500 lb in weight; aid in prevention of anaplasmosis.	do	

(4) Chlortetracycline may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium plus ethopabate in accordance with § 558.58.

(iii) Buquinolate in accordance with § 558.105.

(iv) Clopidol in accordance with § 558.175.

(v) Decoquinate in accordance with § 558.195.

(vi) Diethylstilbestrol in accordance with § 558.225.

(vii) Hygromycin B in accordance with § 558.274.

(viii) Robenidine hydrochloride in accordance with § 558.515.

(ix) Roxarsone in accordance with § 558.530.

(x) Zoalene in accordance with § 558.680.

§ 558.145 Chlortetracycline, procaine penicillin, and sulfamethazine.

(a) *Specifications.* (1) Chlortetracycline is the antibiotic substance produced by growth of *Streptomyces aureofaciens* or the same antibiotic substance produced by any other means and, for the purpose of this section, refers to chlortetracycline or feed grade chlortetracycline as the specified salt.

(2) Procaine penicillin is the procaine salt of the antibiotic substance produced by the growth of *Penicillium notatum* or *Penicillium chrysogenum* or the same antibiotic substance produced by any other means and, for the purposes of this section, refers to procaine penicillin or feed grade procaine penicillin.

(3) Sulfamethazine is the chemical N'-(4,6-dimethyl-2-pyrimidinyl) sulfanilamide.

(4) The antibiotic activities authorized are expressed in this section in terms of the weight of the appropriate antibiotic standards.

(5) Type D medicated feed articles contain in each ton, 100 grams of chlortetracyline, 50 grams of penicillin as procaine penicillin, and 100 grams of sulfamethazine.

(b) *Approvals.* Type A medicated feed articles, 20 grams of chlortetracycline per pound, 4.4 percent of sulfamethazine, and procaine penicillin equivalent in activity to 10 grams of penicillin per pound; see Nos. 000196 and 010042 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed articles: 70 to 130 percent of labeled amount of chlortetracycline and procaine penicillin and 80 to 120 percent of labeled amount of sulfamethazine.

(d) *Special considerations.* Type D medicated feed articles conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See §§ 556.150, 556.510, and 556.670 of this chapter.

(f) *Conditions of use.* (1) It is administered to swine in a Type D medicated feed article for reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibrionic dysentery); prevention of these diseases during times of stress; maintenance of weight gains in the presence of atrophic rhinitis; growth promotion and increased feed efficiency in swine weighing up to 75 pounds.

(2) Withdraw 7 days prior to slaughter.

§ 558.1 Chlortetracycline, procaine penicillin, and sulfathiazole.

(a) *Specifications.* (1) Chlortetracycline is the antibiotic substance produced by growth of *Streptomyces aureofaciens* or the same antibiotic substance produced by any other means and, for the purpose of this section, refers to chlortetracycline or feed grade chlortetracycline as the specified salt.

(2) Procaine penicillin is the procaine salt of the antibiotic substance produced by the growth of *Penicillium notatum* or *Penicillium chrysogenum* or the same antibiotic substance produced by any other means and, for the purposes of this section, refers to procaine penicillin or feed-grade procaine penicillin.

(3) Sulfathiazole is the chemical *N'*-2-thiazolyl-sulfanilamide.

(4) The antibiotic activities authorized are expressed in this section in terms of the weight of the appropriate antibiotic standards.

(b) *Approvals.* (1) Type A medicated feed articles, 20 grams of chlortetracycline hydrochloride per pound, 20 grams of sulfathiazole per pound, and procaine penicillin equivalent in activity to 10 grams of penicillin per pound, see No. 025001 in § 510.600(c) of this chapter.

(2) Type A medicated feed article, 40 grams of chlortetracycline hydrochloride, 40 grams of sulfathiazole, and procaine penicillin equivalent to 20 grams of penicillin per pound, to No. 025001 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 70 to 130 percent of labeled amount of chlortetracycline and procaine penicillin and 80 to 120 percent of labeled amount of sulfathiazole.

(d) *Special considerations.* Type D medicated feed articles conforming to the requirements of this section are exempt from the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See §§ 556.150, 556.510, and 556.690 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per ton.* Chlortetracycline, 100 grams plus penicillin, 50 grams plus sulfathiazole, 100 grams.

(2) *Indications for use.* For increased rate of weight gain and improved feed efficiency in animals up to 6 weeks postweaning. For increased rate of weight gain in animals from 6 to 16 weeks postweaning. Maintenance of weight gains in the presence of atrophic rhinitis; reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleroesuis* and vibrionic dysentery).

(3) *Limitations.* For swine raised in confinement (dry-lot) or on limited pasture; withdraw 7 days prior to slaughter; as procaine penicillin and chlortetracycline hydrochloride, as follows:

Minimum amount of type D medicated feed article which the animal should consume

Type of feed	Approximate body weight in pounds	Minimum desired daily feed intake in pounds
Prestarter (up to 6 weeks' postweaning)	20	1
Starter (up to 6 weeks' postweaning)	50	1½
Grower (6 to 16 weeks' postweaning)	80	2
Finisher (6 to 16 weeks' postweaning)	150	3

§ 558.175 **Clopidol.**

(a) *Chemical name.* 3,5-Dichloro-2, 6-dimethyl-4-pyridinol.

(b) *Approvals. (1) Type A medicated feed article of 25-percent clopidol to No.025700 in § 510.600(c) of this chapter.*

(2)Type A medicated feed article of 0.0345 percent clopidol with or without 0.0138 percent roxarsone to No. 112286 in § 510.600(c) of this chapter.

(3) type A medicated feed article, combinations of clopidol 25 percent, roxarsone 10 percent, and bacitracin methylese disalicylate, 4, 10, 15 or 25 grams per pounds, to No. 025700 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D. medicated feed articles: 80 to 120 percent of labeling amount.

(d) *Related tolerances:* See § 566.160 of this chapter.

(e) *Conditions of use.* Is is used in Type D medicated feed articles for animals has follows:

(1) *Broilar chickens—(i) Amount per ton. Clopidol 113.5 grams (0.0125 percent).*

(a) *Indications for use.* Aid in the prevention of cocidiosis caused by *E. tevella, E. Necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(b) *Limitations.* Do not feed to chickens over 16 weeks of age.

(ii) *Amount per ton.* Clopidol, 113.5 grams (0.125 percent) plus roxarsone 45.4 grams (0.005 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati;* growth promotion and feed efficiency; improved pigmentation.

(b) *Limitations.* Do not feed to chickens over 16 weeks of age; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus roxarsone, 45.4 grams (0.005 percent) plus bacitracin, 4-25 grams.

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati;* growth promotion and feed efficiency; improved pigmentation; increased rate of weight gain.

(b) *Limitations.* Do not feed to chickens over 16 weeks of age; withdraw 5 days before slaughter; as sole source of organic arsenic; as bacitracin methylene disalicylate, provided by No. 046573 in § 510.600(c) of this chapter; or as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter.

(iv) *Amount per ton.* Clopidol, 113.5 grams (0.0125%) plus zinc bacitracin, 5 to 25 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(b) *Limitations.* Feed continuously as sole ration. Zinc bacitracin as provided by No. 012769 in § 510.600(c) of this chapter.

(v) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus bacitracin methylene disalicylate, 4 to 50 grams per ton.

(a) *Indications for use.* For increased rate of weight gain; to aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. mivati,* and *E. brunetti.*

(b) *Limitations.* Feed continuously as the sole ration from the time chicks are placed in floor pens until slaughter. Do not feed to chickens over 16 weeks of age. Bacitracin methylene disalicylate as provided by No. 046573 in § 510.600(c) of this chapter.

(vi) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus lincomycin, 2-4 grams.

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. axima, E. brunetti,* and *E. mivati;* increase in rate of weight gain and improved feed efficiency.

(b) *Limitations.* As lincomycin hydrchloride monohydrate; do not feed to chickens over 16 weeks of age.

(2) *Broiler chickens and replacement chickens—(i) Amount per ton.* Clopidol, 113.5 or 227 grams (0.0125 or 0.025 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(b) *Limitations.* Feed up to 16 weeks of age if intended for use as caged layers; feed continuously as the sole ration; withdraw 5 days before slaughter if given at the level of 0.025 percent in type D article or reduce level to 0.0125 percent 5 days before slaughter.

(ii) *Amount per ton.* 113.5 grams (0.0125 percent) clopidol with 200 grams chlortetracycline.

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. mivati,* and *E. brunetti,* and infectious synovitis caused by *Mycoplasma synoviae.*

(b) *Limitations.* Feed continuously as sole ration from the time chicks are placed in floor pens, up to 21 days of age.

(3) [Reserved]

(4) *Replacement chickens—(i) Amount per ton.* Clopidol 113.5 grams (0.0125 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(b) *Limitations.* For replacement chickens intended for use as caged layers; do not feed to chickens over 16 weeks of age.

(ii) *Amount per ton.* Clopidol 113.5 grams (0.0125 percent) plus roxarsone 45.4 grams (0.005 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati;* growth promotion and feed efficiency; improving pigmentation.

(b) *Limitations.* For replacement chickens intended for use as caged layers; do not feed to chickens over 16 weeks of age; withdraw 5 days before slaughter; as sole source of organic arsenic.

(5) *Turkeys—(i) Amount per ton.* Clopidol 113.5 or 227 grams (0.0125 or 0.025 percent).

(ii) *Indications for use.* Aid in the prevention of leucocytozoonosis caused by *Leucocytozoon smithi.*

(iii) *Limitations.* For turkeys grown for meat purposes only; to be administered continuously in Type D article at 0.0125 or 0.025 percent clopidol as the sole ration depending upon management practices, degree of exposure, and amount of Type D article eaten; withdraw medication 5 days before slaughter.

§ 558.185 **Coumaphos.**

(a) *Chemical name. O,O*-Diethyl *O*-3-chloro - 4 - methyl - 2 - oxo - 2H - 1 - benzopyran-7-yl-phosphorothioate.

(b) *Approvals.* (1) type A medicated feed articles: 1.12, 2.0, 11.2, and 50 percent, see No. 000859 in § 510.600(c) of this chapter.

(2) Type A medicated feed articles: 1.12 and 11.2 percent for use in accordance with paragraph (f)(1)(ii) of this section; see No. 017800 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(d) *Special considerations.* Warning—Coumaphos is a cloinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to colinesterase-inhibiting drugs, pesticides, or chemicals. Atropine is antidotal.

(e) *Related tolerances.* See 40 CFR 180.189.

(f) *Conditions of use.* It is used in Type D medicated feed articles as follows:

(1) *Beef and dairy cattle*—(i) *Amount.* Coumaphos 0.00012 lb. (0.054 gram) per 100 lb. body weight per day.

(*a*) *Indications for use.* As an aid in the reduction of fecal breeding flies through control of fly larvae.

(*b*) *Limitations.* Feed for the duration of fly season in a Type D medicated feed article containing 0.0033 percent or in a Type C medicated feed article containing not over 0.0066 percent coumaphos; do not feed to animals less than 3 months old; not for use in pelleted Type C or D articles.

(ii) *Amount.* Coumaphos, 0.0002 lb. (0.091 gram) per 100 lb. body weight per day.

(*a*) *Indications for use.* Control of gastorintestinal roundworms (*Haemonchus spp., Ostertagia spp., Cooperia spp., Nematodirus spp., Trichostrongylus spp.*).

(*b*) *Limitations.* Feed 0.0002 lb. (0.091 gram) per 100 lb. body weight per day for 6 consecutive days in the normal grain ration to which the animals are accustomed but not in rations containing more than 0.1 percent coumaphos; do not feed to animals less than 3 months old, do not feed to sick animals or animals under stress, such as those just shipped, dehorned, castrated, or weaned within the last 3 weeks; do not feed in conjunction with oral drenches or with Type C or D articles containing phenothiazine. Should conditions warrant, repeat treatment at 30-day intervals.

(2) *Laying chickens*—(i) *Amount.* Coumaphos 27.2 grams per ton (0.003 percent).

(ii) *Indications for use.* For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common roundworm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*).

(iii) *Limitations.* In Type D medicated feed article; administer continuously as the Type D article for 14 days; when reinfection occurs, treatment may be repeated but not sooner than 3 weeks after the end of the previous treatment; do not feed to chickens within 10 days of vaccination or other conditions of stress; treatment of colored breeds of commercial layers should be avoided while in production since these breeds appear to be more sensitive to coumaphos than white breeds; as sole medication; medications in general should be avoided while birds are approaching peak production; such interruption of normal feeding practices may upset the flock and lower egg production; diagnosis by competent personnel is essential; flock condition and production records should be carefully evaluated prior to treatment.

(3) *Replacement pullets*—(i) *Amount.* Coumaphos 36.3 grams per ton (0.004 percent).

(ii) *Indications for use.* For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common roundworm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*).

(iii) *Limitations.* In Type D medicated feed article; administer before the onset of production; diagnosis by competent personnel is essential; administer continuously as Type D article for from 10 to 14 days; do not feed to chickens under 8 weeks of age nor within 10 days of vaccination or other conditions of stress; if birds are maintained on contaminated litter or exposed to infected birds, a second 10 to 14 day treatment is recommended but not sooner than 3 weeks after the end of the previous treatment; as sole medication; if reinfection occurs after production begins, repeat treatment as recommended for laying flocks.

§ 558.195 Decoquinate.

(a) *Chemical name.* Ethyl 6-(decyloxy)-7-ethoxy-4-hydroxy-3-quinolinecarboxylate ($C_{24}H_{35}NO_5$).

(b) *Specifications.* Assay—not less than 98 percent by ultraviolet spectrophotometry; melting-point range—242°–245° C.

(c) *Approvals.* (1) Type A medicated feed article: 6 percent to No. 011801 in § 510.600(c) of this chapter.

(2) Type A medicated feed article: 0.00828 percent to No. 012286 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(e) *Related tolerances in edible products.* See § 556.170 of this chapter.

(f) *Special considerations.* Bentonite should not be used in decoquinate Type B, C, or D medicated feed article.

(g) *Conditions of use.* (1) It is used in Type D medicated feed articles as follows:

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
27.2 (0.003 pct).....	.....	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. mivati, E. acervulina, E. maxima,* and *E. brunetti.*	Do not feed to laying chickens	011801, 012286
	Bacitracin 10 to 50....	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. mivati, E. acervulina, E. maxima,* and *E. brunetti;* for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; feed as sole ration; as zinc bacitracin provided by No. 012769 in sec. 510.600(c) of this chapter.	011801
	Chlortetracycline 200.	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. mivati, E. maxima,* and *E. brunetti;* for the treatment of chronic respiratory disease (air-sac infection), prevention of synovitis.	Do not feed to laying chickens; in low calcium Type D articles containing 0.8 pct of calcium; not to be fed continuously for more than 8 week; as chlortetracycline hydrochloride provided by No. 010012 in sec. 510.600(c) of this chapter.	011801
	Roxarsone 45.4 (0.005 pct).	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. mivati, E. acervulina, E. maxima,* and *E. brunetti;* growth promotion and feed efficiency; improving pigmentation.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of organic arsenic.	011801
27.2 (0.003 pct).....	Lincomycin 2	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. mivati,* and *E. brunetti;* for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; feed as sole ration; as lincomycin hydrochloride monohydrate provided by No. 000009 in sec. 510.600(c) of this chapter.	000009, 011801

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Roxarsone 11 to 45 (0.0012-0.005 pct) plus Bacitracin 12 to 50.	Broiler chickens; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. mivati, E. maxima,* and *E. brunetti;* for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of organic arsenic; as zinc bacitracin provided by No. 012769 in sec. 510.600(c) of this chapter; as roxarsone provided by No. 017210 in sec. 510.600(c) of this chapter.	011801

(2) It is used in Type C or D medicated feed articles as follows:

Decoquinate	Combination in grams per ton	Indications for use	Limitations	Sponsor
22.7 mg per 100 lb of body weight per day (0.5 mg per kilogram.		Cattle; as an aid in the prevention of coccidiosis in ruminating calves and cattle caused by *Eimeria bovis* and *E. zurnii.*	Feed for at least 28 d during periods of coccidiosis or when it is likely to be a hazard. Do not feed to breeding animals or cows producing milk for food. Type D medicated feed articles for cattle should be consumed within 7 d of manufacture.	011801

§ 558.205 Dichlorvos.

(a) *Chemical name.* 2,2-Dichlorovinyl dimethyl phosphate.

(b) *Approvals.* Type A medicated feed article: 9.6 percent to No. 011461 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 130 percent of labeled amount.

(d) *Special considerations.* (1) Dichlorvos is to be included in meal or mash or mixed with feed in crumble form only after the crumble Type C or D article has been manufactured. Do not mix in Type C or D medicated feed articles to be pelleted nor with pelleted feed. Do not soak the Type C or D article or administer as wet mash. Type C or D medicated feed article must be dry when administered. Do not use in animals other than swine. Do not allow fowl access to Type C or D medicated feed articles containing this preparation or to feces from treated animals.

(2) Dichlorvos is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals. If human or animal poisoning should occur, immediately consult a physician or a veterinarian. Atropine is antidotal.

(3) Labeling for Type C medicated feed articles must include a statement that containers or materials used in packaging such Type C articles are not to be reused and all such packaging materials must be destroyed after the product has been used.

(4) Type C or D medicated feed articles conforming to the requirements of this section and processed from Type C articles containing not more than 0.768 percent of dichlorvos are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See § 556.180 of this chapter.

(f) *Conditions of use.* It is used in Type C or D medicated feed articles for swine as follows:

(1) *Amount per ton.* Dichlorvos, 348 grams (0.0384 percent).

(i) *Indications for use.* For the removal and control of mature, immature, and/or fourth-stage larvae of the whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum sp.*), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) of the gastrointestinal tract.

(ii) *Limitations.* For swine up to 70 pounds body weight, feed as sole ration for 2 consecutive days. For swine from 70 pounds to market weight, feed as sole ration at the rate of 8.4 pounds of feed per head until the Type D article has been consumed. For boars, open or bred gilts, and sows, feed as sole ration at the rate of 4.2 pounds per head per day for 2 consecutive days.

(2) *Amount per ton.* Dichlorvos, 479 grams (0.0528 percent).

(i) *Indications for use.* For the removal and control of mature, immature, and/or fourth-stage larvae of the whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum sp.*), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) of the gastrointestinal tract.

(ii) *Limitations.* For boars, open or bred gilts, and sows, feed as sole ration at the rate of 6 pounds per head for one feeding.

(3) *Amount per ton.* Dichlorvos, 334–500 grams (0.0366–0.0550 percent).

(i) *Indications for use.* An aid in improving litter production efficiency by increasing pigs born alive, birth weights, survival to market, and rate of weight gain. Treatment also removes and controls mature, immature and/or fourth stage larvae of whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum sp.*), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) occurring in the gastrointestinal tract of the sow or gilt.

(ii) *Limitations.* For pregnant swine; mix into a gestation feed to provide 1,000 milligrams per head daily during last 30 days of gestation.

§ 558.225 Diethylstilbestrol.

(a) *Approvals.* (1) Dry Type A medicated feed article of 2 grams (0.44 percent) and 10 grams (2.2 percent) of diethylstilbestrol per pound, and liquid Type A medicated feed article of 20 grams (4.4 percent) and 40 grams (8.8 percent) of diethylstilbestrol per pound, for use in manufacturing Type C or D medicated feed articles within the currently approved use levels of 5 to 20 milligrams per head per day; see No. 011801 in § 510.600(c) of this chapter.

(2) Dry Type A medicated feed article of 2 grams (0.44 percent), 4 grams (0.88 percent), and 10 grams (2.2 percent) of diethylstilbestrol per pound for use in manufacturing Type C or D medicated feed articles within currently approved use levels of 5 to 20 milligrams per head per day; see No. 024264 in § 510.600(c) of this chapter.

(3) [Reserved]

(b) *Assay limits.* Type C or D medicated feed articles containing below 0.00022 percent diethylstibestrol must have 80 to 120 percent of labeled amount. Type C or D medicated feed articles containing over 0.00022 percent diethylstilbestrol must have 85 to 115 percent of labeled amount.

(c) *Special considerations.* Maximum level of diethylstilbestrol permitted in Type C medicated feed article for cattle is 0.0044 percent.

(d) *Related tolerances.* See § 556.190 of this chapter.

(e) *Conditions of use.* (1) It is used in Type C or D medicated feed article as follows:

Diethylstilbestrol in milligrams per head per day	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
(i) 2		Fattening of sheep	Sheep; withdraw 7 d before slaughter; do not feed to breeding animals.	
(ii) 5 to 20		Fattening of beef cattle	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals; feed not more than 10 mg per head per day to animals under 750 lb body weight.	021264
(iii) 10		do	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Bacitracin 70	Fattening of beef cattle; reduction in number of liver condemnations due to abscesses in feedlot beef cattle; as bacitracin methylene disalicylate.	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals. Feedlot beef cattle; administer continuously throughout the feeding period; withdraw 7 d before slaughter.	
	Bacitracin 250	do	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals. Feedlot beef cattle; administer continuously for 5 d, then discontinue for subsequent 25 d, repeat the pattern during the feeding period; continue diethylstilbestrol during 25 d period.	
	Bacitracin 35 to 70	Fattening of beef cattle; growth promotion and feed efficiency; as zinc bacitracin.	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 0.5 mg per pound of body weight per day.	Fattening of beef cattle; aid in prevention of anaplasmosis.	Beef cattle over 1,500 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 70.	1. Fattening of beef cattle; aid in prevention of liver abscesses.	Beef cattle and feedlot beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
		2. Fattening of beef cattle; aid in reduction of bacterial diarrhea; aid in the prevention of foot rot.	Beef cattle to 700 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 100.	Fattening of beef cattle; aid in reduction of bacterial diarrhea; aid in the prevention of foot rot.	Beef cattle over 700 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 350.	1. Fattening of beef cattle; aid in prevention of bacterial pneumonia and shipping fever (hemorrhagic septicemia); aid in reduction of losses due to respiratory infection (infectious rhinotracheitis, shipping fever complex).	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
		2. Fattening of beef cattle; aid in prevenion of anaplasmosis.	Beef cattle up to 700 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 500.	Fattening of beef cattle; aid in prevention of anaplasmosis.	Beef cattle 700 lb to 1,000 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding animals.	
	Chlortetracycline 750.	do	Beef cattle 1,000 to 1,500 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Oxytetracycline 75 to 80.	Fattening of beef cattle; reduction in incidence and severity of liver abscesses.	Beef cattle over 100 lb in weight; as monoalkyl (C_8—C_{18}) trimethyl ammonium oxytetracycline; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	

§ 558.240 **Dimetridazole.**

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 120 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.210 of this chapter.

(e) *Conditions of use.* It is used in the Type D medicated feed articles for turkeys as follows:

(1) *Amount per ton.* 136 to 182 grams (0.015 to 0.02 percent).

(i) *Indications of use.* For prevention of blackhead (histomoniasis, infectious enterohepatitis), growth promotion and feed efficiency.

(ii) *Limitations.* Feed continuously; do not feed to birds producing eggs for human consumption; withdraw 5 days before slaughter; as sole source of dimetridazole.

(2) *Amount per ton.* 544 to 725 grams (0.06 to 0.08 percent).

(i) *Indications for use.* As an aid in the control of blackhead (histomoniasis, infectious enterohepatitis).

(ii) *Limitations.* Feed for not more than 7 days; do not feed to birds producing eggs for human consumption; withdraw 5 days before slaughter; as sole source of dimetridazole.

§ 558.248 **Erythromcin thiocyanate.**

(a) *Approval*—(1) Type A medicated feed article: 2.2 percent to No. 043731 in § 510.600(c) of this chapter.

(2) [Reserved]

(b) *Assay limits*—(1) Type C or D medicated feed articles containing less than 20 grams per ton, 50 to 150 percent of labeled amount.

(2) Type C or D medicated feed articles containing over 20 grams per ton, 75 to 125 percent of labeled amount.

(c) *Special considerations.* (1) The levels of antibiotic listed are expressed in terms of the weight of erythromycin master standard. One gram of erythromycin thiocyanate is equivalent to 0.925 gram of erythromycin master standard.

(2) Type D medicated feed articles for swine, processed from Type A medicated feed articles that contain not more than 10 grams of erythromycin thiocyanate (9.25 grams of erythromycin) per pound and conform to the requirements of this section are not required to comply with the provisions of section 512(m) of the act (21 U.S.C. 360b(m)).

(d) *Related tolerances.* See § 556.230 of this chapter.

(e) *Conditions of use*—(1) It is used in Type D medicated feed articles as follows:

Erythromycin thiocyanate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 4.6 to 18.5		Chickens; growth promotion and feed efficiency		
(ii) 9.25 to 18.5		Turkeys; growth promotion and feed efficiency	For turkeys not over 12 weeks of age	
(iii) 9.25 to 64.75		Swine; increase in weight gain, improved feed efficiency in starter pigs (9.25 to 64.75) and grower-finishing pigs (9.25).	Starter ration for animals up to 35 lb body weight	043731
(iv) 18.5		Laying chickens; aid in increasing egg production		
(v) 92.5		1. Chickens; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter.	
		2. Chickens; as an aid in the prevention of infectious corvza.	Feed for 7 to 14 d; withdraw 24 h before slaughter	
		3. Turkeys; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress	
(vi) 185		1. Chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter.	
		2. Turkeys; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed 5 to 8 d; do not use in birds producing eggs for food purposes.	

(2) It is used in type C or D medicated feed articles for feedlot beef cattle at 37 milligrams per head per day as an aid in stimulating growth and improving feed efficiency.

(3) Erythromycin thiocyanate may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium and ethopabate in accordance with § 558.58.

(iii) Arsanilic acid in accordance with § 558.62.

(iv) Zoalene in accordance with § 558.680.

§ 558.254 Famphur.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) *Special considerations.* Famphur is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(d) *Related tolerances.* See 40 CFR 180.233.

(e) *Conditions of use.* It is used in type D medicated feed articles for cattle as follows:

(1) *Amount.* 1.1 milligrams per pound body weight per day.

(i) *Indications for use.* For control of grubs and as an aid in control of sucking lice.

(ii) *Limitations.* For beef cattle and nonlactating dairy cows; feed for 30 days; withdraw from dry dairy cows and heifers 21 days prior to freshening; withdraw 4 days prior to slaughter.

(2) *Amount.* 2.3 milligrams per pound body weight per day.

(i) *Indications for use.* For control of grubs.

(ii) *Limitations.* For beef cattle and nonlactating dairy cows; feed for 10 days; withdraw from dry dairy cows and heifers 21 days prior to freshening; withdraw 4 days prior to slaughter.

§ 558.258 Ferrous fumarate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 125 percent of labeled amount.

(c) [Reserved]

(d) *Conditions of use.* It is used in Type D medicated feed articles as a source of iron for the prevention of iron deficiency anemia in baby pigs, in an amount not to exceed that necessary to accomplish its intended effect.

§ 558.262 Furazolidone.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing furazolidone are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.290 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed article for swine as follows:

(1) *Amount per ton.* 150 grams (0.0165 percent).

(i) *Indications for use.* In sows, for prevention of bacterial scours in baby pigs; growth promotion while on medication.

(ii) *Limitations.* Feed 1 week before farrowing and 2 weeks after farrowing.

(2) *Amount per ton.* 100 to 200 grams (0.011 to 0.022 percent).

(i) *Indications of use.* Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication.

(ii) *Limitations.* Feed 100 grams per ton for 5 weeks; or 150 grams per ton for 3 weeks; or 200 grams per ton for 2 weeks.

(3) *Amount per ton.* 300 grams (0.033 percent).

(i) *Indications for use.* Treatment of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication.

(ii) *Limitations.* Feed 10 to 14 days.

§ 558.266 Griseofulvin.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) [Reserved]

(d) *Conditions of use.* It is used in the Type D medicated feed article for chinchillas as follows:

(1) *Amount.* 160 milligrams per pound (0.0353 percent).

(2) *Indications for use.* Prevention, treatment, and control of fungal infections caused by *Trichophyton*, and as an aid in the prevention of fur chewing associated with these fungal infections.

(3) *Limitations.* Administer as sole ration.

§ 558.274 Hygromycin B.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 75 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles for chickens containing hygromycin B as sole drug, processed from Type C medicated feed articles containing not more than 32 grams per ton hygromycin B, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.330 of this chapter.

(e) *Conditions of use.* (1) It may be used in Type D medicated feed articles as follows:

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12		Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).		
	Bacitracin 100	Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate or zinc bacitracin	
	Bacitracin plus penicillin (100 to 200 of combination).	1. Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D articles containing not less than 25 pct of penicillin plus not less than 50 pct of bacitracin; as procaine penicillin plus bacitracin methylene disalicylate.	
	do	2. Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D articles containing not less than 50 pct nor more than 75 pct of bacitracin, except that it contains not more than 125 g of penicillin; as procaine penicillin plus zinc bacitracin.	
		3. Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D articles containing 50 pct to 75 pct bacitracin, but not more than 125 g of penicillin, as procaine penicillin.	
	Chlortetracycline 100 to 200.	Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	
	Penicillin 100	Chickens; control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As procaine penicillin	
	Penicillin plus streptomycin (90 to 180 of combination).	do	Type D articles containing 16.7 pct of penicillin; as procaine penicillin plus streptomycin sulfate.	
(ii) 12		Swine; control of infestation of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostenum dentatum*) and whipworms (*Trichuris suis*).	Withdraw 48 h prior to slaughter	
	Chlortetracycline 100 to 200.	Swine; control of infestation of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostenum dentatum*) and whipworms (*Trichuris suis*); treatment of bacterial swine enteritis.	As chlortetracycline hydrochloride; withdraw 48 h prior to slaughter.	

(2) Hygromycin B may also be used in combination with:

(i) Amprolium in accordance with § 558.55.

(ii) Zoalene in accordance with § 558.680.

§ 558.305 **Ipronidazole.**

(a) *Chemical name.* 2-Isopropyl-1-methyl-5-nitroimidazole.

(b) *Approvals.* Type A medicated feed article containing 12.5 percent of the drug granted; see No. 000004 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article containing 0.00625 percent ipronidazole, 75 to 125 percent of labeled amount. Type D medicated feed article containing 0.025 percent ipronidazole; 80 to 120 percent of labeled amount. Type A medicated feed article: 98 percent to 115 percent of labeled amount.

(d) *Related tolerances.* See § 556.340 of this chapter.

(e) *Special considerations.* Type D medicated feed articles processed from Type C medicated feed articles that contain up to 0.0625 percent ipronidazole and that comply with the provisions of both this paragraph and paragraph (f) of this section is not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(f) *Conditions of use.* It is used in Type D medicated feed articles for turkeys as follows:

(1) *Amount per ton.* Ipronidazole, 56.75 grams (0.00625 percent).

(i) *Indication for use.* As an aid in the prevention of blackhead (histomoniasis). For increased rate of weight gain and improved feed efficiency.

(ii) *Limitations.* Withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food.

(2) *Amount per ton.* Ipronidazole, 56.75 grams (0.00625 percent) plus sulfadimethoxine, 56.75 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent).

(i) *Indications for use.* As an aid in the prevention of blackhead (histomoniasis) and coccidiosis caused by all Eimeria species known to be pathogenic to turkeys, namely, *E. adenoeides, E. gallopavonis,* and *E. meleagrimitis;* bacterial infections due to *P. multocida* (fowl cholera).

(ii) *Limitations.* Withdraw 5 days before slaughter. Do not feed to turkeys producing eggs for food.

(3) *Amount per ton.* Ipronidazole, 227 grams (0.025 percent).

(i) *Indications for use.* For the treatment of blackhead (histomoniasis) in turkeys.

(ii) *Limitations.* Withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food. Feed for 7 days at the 0.025 percent level. Follow treatment with the preventive level (0.00625 percent) of ipronidazole.

§ 558.311 **Lasalocid sodium.**

(a) *Specifications.* Lasalocid sodium is the crystalline substance produced by the fermentation of *Streptomyces lasaliensis.* A minimum of 90 percent lasalocid sodium activity is derived from lasalocid A sodium.

(b) *Approvals.* Type A medicated feed article: 68 grams per pound of lasalocid sodium activity to No. 000004 § 510.600 (c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.

(d) *Related tolerance.* See § 556.347 of this chapter.

(e) *Conditions of use.* It is used in feed for broiler or fryer chickens as follows:

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(1) 68 (0.0075 pct) to 113 (0.0125).	.....	For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*	For broiler or fryer chickens only, feed continuously as the sole ration; withdraw 3 d before slaughter.	000004
(2) 08 (0.0075 pct).....	Roxarsone 45.4 (0.005 pct).	Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. matavti,* and *E. maxima* and as an aid in the reduction of oocysts and lesions due to *E. tenella.*	For broiler or fryer chickens only; feed continuously as the sole ration; as sole source of organic arsenic; withdraw 5 d before slaughter; roxarsone provided by No. 017210 in sec. 510.600(c) of this chapter.	000004
(3) 68 (0.0075 pct).....	Lincomycin 2 (0.00044 pct).	Broiler or fryer chickens; for the prevention of coccidiocis caused by *Eimeria, E. brunetti, E. tenella, E. acervulina, E. maxima, E. necatrix,* for increased rate of weight gain and improved lead efficiency.	For broiler and fryer chickens only; feed continuously as sole ration; withdraw 5 d before slaughter finished feed must be used within 4 weeks of manufacture; as lincomycin hydrochloride monohydrate.	000000

§ 558.315 **Levamisole hydrochloride (equivalent).**

(a) *Chemical name.* (−)-2,3,5,6,-Tetrahydro-6-phenylimidazo [2,1-*b*] thiazole monohydrochloride.

(b) *Specifications.* Assay of not less than 98 percent of nonaqueous titration with 0.1*N* potassium isoproproxide; 1 isomer minimum 95 percent pure by optical rotation.

(c) *Approvals.* Type A medicated feed article: 227 grams per pound to No. 010042 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed article: 85 to 125 percent of labeled amount.

(e) *Related tolerances.* See § 556.350 of this chapter.

(f) *Conditions of use.* It is used in Type C or D medicated feed articles as follows:

(1) *Cattle*—(i) *Amount per ton.* 0.36–3.6 grams (0.08–0.8 percent).

(ii) *Indications for use.* Treatment of the following gastrointestinal worms and lung worm infections; stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum*), and lungworms (*Dictyocaulus*).

(iii) *Limitations.* Administer Type C article mixed thoroughly in one-half

the usual amount of morning feed; mixed Type C article should be consumed within 6 hours; when Type C article feed is consumed resume normal feeding; Type C article is to be fed at the rate of 0.36 gram of levamisole hydrochloride (equivalent) per 100 lb. of body weight; conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment; do not slaughter for food within 48 hours of treatment; consult veterinarian before using in severely debilitated animals; do not administer to dairy animals of breeding age; for use in pelleted or meal Type C medicated feed articles only; the label shall bear the caution, "Muzzle foam may be observed. However, this reaction will disappear within a few hours. If this condition persists, a veterinarian should be consulted. Follow recommended dosage carefully."

(2) *Swine*—(i) *Amount per ton.* 0.36 grams (0.08 percent).

(ii) *Indications for use.* Treatment of the following nematode infections; large round worms (*Ascaris suum*), nodular worms (*Oesophagostomum spp.*), lungworms (*Metastrongylus spp.*), intestinal threadworms (*Strongyloides ransomi*).

(iii) *Limitations.* It is recommended that regular feed be withheld overnight and worming feed administered the following morning; feed 1 lb of worming feed per 100 lb. of body weight of pigs to be treated; may be fed as Type D medicated feed article or thoroughly mixed with 1 to 2 parts of regular feed prior to feeding; when Type D article is consumed, resume normal feeding. Pigs maintained under conditions of constant worm exposure may require re-treatment within 4 to 5 weeks after the first treatment due to reinfection; do not slaughter for food within 72 hours of treatment; the label shall bear the caution, "Excessive salivation or muzzle foam may be observed. This reaction is occasionally seen and will disappear in a short time after medication. If pigs are infected with mature lungworms, coughing and vomiting may be observed soon after Type D article is consumed. This reaction is due to the expulsion of worms from the lungs and will be over in several hours."

§ 558.325 Lincomycin.

(a) *Specifications.* Meets the specifications prescribed by § 453.30(a)(1) of this chapter.

(b) *Approvals.* (1) Type A medicated feed article: 4 grams per pound to No. 000009 in § 510.600(c) of this chapter for use as provided in paragraphs (f)(1) and (f)(3) of this section.

(2) Type A medicated feed article: 20 grams per pound to No. 000009 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2) of this section.

(c) *Assay limits.* Type D medicated feed articles: 80 to 130 percent of labeled amount. Type A medicated feed articles: 90 to 115 percent of labeled amount.

(d) *Related tolerances in edible products.* See § 556.360 of this chapter.

(e) *Special considerations.* (1) Type D medicated feed articles for broilers containing lincomycin as the sole drug and conforming to the requirements of paragraph (f)(1) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) Type D medicated feed articles containing lincomycin as the sole drug, processed from Type C medicated feed articles that contain up to 2,600 grams of lincomycin per ton, and conforming to the requirements of paragraph (f)(2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(f) *Conditions of use.*

(1) *Broilers*—It is used in Type D medicated feed articles as follows:

(i) *Amount per ton.* 2 to 4 grams.

(*a*) *Indications for use.* For increase in rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* As lincomycin hydrochloride monohydrate.

(ii) *Amount per ton.* 2 grams.

(*a*) *Indications for use.* For control of necrotic enteritis caused by *Clostridium spp.* or other susceptible organisms.

(*b*) *Limitations.* As lincomycin hydrochloride monohydrate.

(2) *Swine*—It is used in Type D medicated feed articles as follows:

(i) *Amount per ton.* 40 grams.

(*a*) *Indications for use.* For control of swine dysentery.

(*b*) *Limitations.* Feed as sole ration; for use in swine on premises with a history of swine dysentery but where symptoms have not yet occurred; not for use in breeding swine; withdraw 6 days before slaughter.

(ii) *Amount per ton.* 100 grams; 40 grams.

(*a*) *Indications for use.* For treatment and control of swine dysentery.

(*b*) *Limitations.* Feed 100 grams per ton for 3 weeks or until signs of disease disappear, followed by 40 grams per ton; feed as sole ration; not for use in breeding swine; withdraw 6 days before slaughter.

(iii) *Amount per ton.* 100 grams.

(*a*) *Indications for use.* For treatment of swine dysentery.

(*b*) *Limitations.* Feed as sole ration for 3 weeks or until signs of disease disappear; not for use in breeding swine; withdraw 6 days before slaughter.

(3) Lincomycin may also be used for broilers in combination with:

(i) Amprolium, ethopabate, and roxarsone in accordance with §§ 558.58 and 558.530.

(ii) Amprolium and ethopabate in accordance with § 558.58.

(iii) Clopidol in accordance with § 558.175.

(iv) Buquinolate in accordance with § 553.105.

(v) Decoquinate in accordance with § 558.195.

(vi) Zoalene in accordance with § 558.680.

(vii) Monensin in accordance with § 558.355.

(viii) Robenidine hydrochloride in accordance with § 558.515.

(ix) Roxarsone and monensin sodium in accordance with §§ 558.355 and 558.530.

(x) Lasalocid sodium in accordance with § 558.311.

§ 558.342 Melengestrol acetate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 70 to 120 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.380 of this chapter.

(e) *Conditions of use.* It is used in or on feed for heifers as follows:

(1) *Amount.* 0.25 to 0.50 milligram per head per day.

(2) *Indications for use.* Use for growth stimulation, improved feed utilization, and suppression of estrus (heat).

(3) *Limitations.* Heifers being fed for slaughter; administer in Type C medicated feed articles; withdraw 48 hours prior to slaughter.

§ 558.355 Monensin.

(a) *Specifications.* Monensin is the substance produced by the fermentation of *Streptomyces cinnamonensis* or the same substance produced by an other means. It is present as monensin or the sodium salt. A minimim of 90 percent of monensin activity is derived from monensin A.

(b) *Approvals.* Type A medicated feed articles containing monensin with diluent or Type B medicated feed articles containing monensin with diluent plus vitamins, minerals, and/or other nutrient ingredients granted to firms as sponsor(s) and identified by sponsor numbers in § 510.600(c) of this chapter for the conditions of use indicated in paragraph (f) of this section are as follows:

(1) To 000986: 44 or 45 grams per lb., paragraphs (f)(1)(i) and (f)(4) of this section.

(2) To 000986: 110 grams per lb., paragraphs (f)(1) (i), (iii), (iv), (v), (ix) and (x).

(3) To 000986: 44 grams per lb. with 18 grams per lb. of roxarsone, 110 grams per lb. with 45 grams per lb. of roxarsone, paragraph (f)(1)(ii).

(4) To 012286: 303.5 grams per ton. as monensin sodium, with .038 percent roxarsone, paragraph (f)(1)(ii).

(5) To 011904: 14.67 grams per lb., as monensin sodium, paragraph (f)(1)(i).

(6) To 011904: 11.786 grams per lb., as monensin sodium, with 1.063 percent roxarsone, 22 grams per lb., as monensin sodium, with 1.98 percent roxarsone, paragraph (f)(1)(ii).

(7) To 000986: 20, 30, 45, or 60 grams per lb., as monensin sodium, paragraph (f)(3).

(c) *Assay limits.* (1) Type D medicated feed articles for chickens; 75 to 125 percent of labeled amount of monensin activity.

(2) Type D medicated feed articles for cattle:

(i) Type D articles labeled as containing 5 to 10 grams of monensin activity per ton, 80 to 120 percent of labeled amount of monensin activity.

(ii) Type D articles labeled as containing 10 to 30 grams of monensin activity per ton, 85 to 115 percent of labeled amount of monensin activity.

(2) *Special considerations.* (1) Type D medicated feed articles for chickens containing monensin as the mycelial cake shall bear an expiration date of 90 days after its date of manufacture.

(2) Type D medicated feed articles for cattle, containing 30 grams or less monensin sodium per ton shall bear an expiration date of 30 days after its date of manufacture.

(3) Type D medicated feed articles for cattle, manufactured from Type C medicated feed articles that contain not more than 1,200 grams per ton of monensin and that comply with the provisions of paragraph (f)(3) of this section are not required to comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(4) Type D medicated feed articles for cattle manufactured from Type A medicated feed articles containing 20 grams per pound of monensin and that comply with the requirements of paragraph (f)(3) of this section are not required to comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See § 556.420 of this chapter.

(f) *Conditions of use. It is used as follows:*

(1) *Broiler chickens*—(i) *Amount per ton.* Monensin, 90–110 grams.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunnetti, E. mivati, and E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 72 hours before slaughter; as monensin or monensin sodium.

(ii) *Amount per ton.* Monensin, 90–110 grams, plus roxarsone, 45.4 grams (0.005 percent).

(a) *Indications for use.* Growth promotion and feed efficiency, improving pigmentation; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as monensin or monensin sodium.

(iii) *Amount per ton.* Monensin, 90–110 grams plus bacitracin, 5–10 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. Acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter; as monensin sodium.

(iv) *Amount per ton.* Monensin, 90–110 grams plus bacitracin, 10 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix. E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter; as monensin sodium.

(v) *Amount per ton.* Monensin, 90–110 grams plus bacitracin, 10–30 grams.

(a) *Indications for use.* For improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter; as monensin sodium.

(vi) *Amount per ton.* Monensin, 90 to 110 grams plus bambermycins, 1 gram. See § 558.95(e)(1)(vi).

(vii) *Amount per ton.* Monensin, 90 to 110 grams plus bambermycins, 1 gram plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent). See § 558.95(e)(1)(vii).

(viii) *Amount per ton.* Monensin, 90 to 110 grams plus oxytetracycline, 200 grams.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima; and for the control of complicated chronic respiratory disease (CRD or air sac infection) caused by Mycoplasma gallisepticum* and *Escherichia coli.*

(b) *Limitations.* Withdraw 72 hours before slaughter; do not feed to laying chickens; feed continuously as sole ration; as monensin sodium.

(ix) *Amount per ton.* Monensin, 90–110 grams plus lincomycin, 2 grams.

(a) *Indications for use.* For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; to be fed as a sole ration, withdraw 72 hours before slaughter; as monensin sodium.

(x) *Amount per ton.* Monensin, 90–110 grams plus lincomycin, 2 grams and roxarsone, 15–45 grams.

(a) *Indications for use.* For increase in rate of weight gain; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter; as monensin sodium provided by No. 000986, § 510.600(c) of this chapter; as lincomycin provided by No. 000009, § 510.600(c) of this chapter; as a combination provided by No. 000009, § 510.600(c) of this chapter.

(xi) *Amount per ton.* Monensin, 90 to 110 grams, plus lincomycin, 2 grams and roxarsone, 15 to 30 grams.

(a) *Indications for use.* For increase in rate of weight gain, improved feed efficiency, improved pigmentation, and as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti E. mivati* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as lincomycin provided by No. 000009 in § 510.600(c) of this chapter; as a combination provided by No. 000009 in § 510.600(c) of this chapter.

(2) [Reserved]

(3) *Cattle*—(i) *Amount per ton.* Monensin, 5–30 grams.

(ii) *Indications for use.* Improved feed efficiency.

(iii) *Limitations.* Feed only to cattle being fed in confinement for slaughter; feed continuously in a Type D medicated feed article at the rate of not less than 50 nor more than 360 milligrams per head per day, as monensin sodium; do not allow horses or other equines access to formulations containing monensin (ingestion of monensin by equines has been fatal).

(4) *Replacement chickens intended for use as cage layers*—(i) *Amount per ton.* Monensin, 90 to 110 grams.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti E. mivati,* and *E. maxima.*

(iii) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium; do not feed to chickens over 16 weeks of age.

§ 558.365 Nequinate.

(a) *Chemical name.* Methyl 7-(benzyloxy) - 6 - butyl - 1,4 dihydro - 4 - oxo- 3-quinoline carboxylate.

(b) *Approvals.* (1) Type A medicated feed article: 4 percent nequinate to No. 000046 in § 510.600(c) of this chapter.

(2) Type A medicated feed article: 4 percent nequinate to No. 017800 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount of nequinate.

(d) *Related tolerances.* See § 556.440 of this chapter.

(e) *Special considerations.* Do not use in Type B, C, or D articles containing bentonite.

(f) *Conditions of use.* It is used as follows:

(1) *Broiler or fryer chickens*—(i) *Amount per ton.* Nequinate, 18.16 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(b) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Nequinate, 18.16 grams (0.002 percent) plus roxarsone, 45.4 grams (0.005 percent).

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. brunetti,* and *E. mivati;* growth promotion and feed efficiency; for improving pigmentation.

(b) *Limitations.* Feed continuously as sole ration throughout the starting period; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton. Nequinate, 18.16 grams (0.002 percent) plus oxytetracycline, 200 grams.*

(a) *Indications for use.* For control of complicated chronic respiratory disease (air-sac infection), infectious synovitis, and treatment of blue comb (nonspecific infectious enteritis).

(b) *Limitations.* As monoalkyl (C_8-C_{18}) trimethylammonium oxytetracycline as provided by No. 000069 in § 510.600(c) of this chapter.

(2) *Roaster chickens or replacement chickens for caged layers*—(i) *Amount per ton.* Nequinate, 18.16 grams (0.002 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(iii) *Limitations.* Feed continuously as the sole ration; do not feed to chickens over 16 weeks of age.

§ 558.366 Nicarbazin.

(a) *Approvals.* Type A medicated feed article: 25 percent of nicarbazin granted to No. 000006 in § 510.600(c) of this chapter.

(b) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) *Related tolerances.* See § 556.445 of this chapter.

(d) [Reserved]

(e) *Conditions of use.* It is used in chicken feed as follows:

(1) *Amount per ton.* 113.5 grams (0.0125 percent).[1]

(2) *Indications for use.* As an aid in preventing outbreaks of cecal (*Eimeria tenella*) and intestinal (*E. acervulina, E. maxima, E. necatrix,* and *E. brunetti*) coccidiosis.[1]

(3) *Limitations.* Feed continuously as the sole ration in a complete feed from the time chicks are placed on litter until past the time when coccidiosis is ordinarily a hazard: do not use as a treatment for outbreaks of coccidiosis; do not use in flushing mashes; do not feed to laying hens; withdraw 4 days before slaughter.

§ 558.367 Niclosamide.

(a) *Approvals.* Type A medicated feed article: 66 percent to No. 000859 in § 510.600(c) of this chapter.

(b) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) *Conditions of use.* It is used for laboratory mice as follows:

(1) *Amount per ton.* 6.6 pounds (0.033 percent).

(2) *Indications for use.* Control of the mouse tapeworm *Hymenolepis nana.*

(3) *Limitations.* Feed daily for 7 consecutive days. Do not administer other drugs during treatment. If reinfection occurs, treatment may be repeated after 30 days. Do not feed to sick or debilitated animals or animals under severe stress. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. When mixed according to directions and fed free choice, the Type D article will provide a daily dose of 500 milligrams per kilogram of body weight.

§ 558.370 Nitrofurazone.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing nitrofurazone as the sole drug are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

[1] These claims are NAS/NRC reviewed and are deemed effective. Applications for these uses need not include the effectiveness data specified by § 514.111 of this chapter.

(d) *Conditions of use.* It is used in Type D medicated feed articles for mink as follows:

(1) *Amount per ton.* 100 to 200 grams (0.011 to 0.022 percent).

(i) *Indications for use.* Treatment of gray diarrhea.

(ii) *Limitations.* Feed 100 grams per ton for 3 days, then 200 grams per ton for 21 days (amount of active ingredient calculated on Type D article before water added); do not repeat treatment. Discard unused mixed Type D article every 24 hours.

(2) *Amount per ton.* 100 grams (0.011 percent).

(i) *Indications for use.* Control of gray diarrhea.

(ii) *Limitations.* Feed continuously during susceptible period, not to exceed 90 days (amount of active ingredient calculated on Type D article before water added). Discard unused mixed Type D article every 24 hours.

§ 558.376 Nitromide and sulfanitran.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: nitromide, 80 to 120 percent of labeled amount; sulfanitran, 75 to 125 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See §§ 556.220 and 556.680 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens as follows:

(1) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanitran (003 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix,* and *E. acervulina.*

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A articles containing not more than 25 percent nitromide and 30 percent sulfanitran.

(2) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanitran (0.03 percent), plus 45.4 grams per ton roxarsone (0.005 percent).

(i) *Indications for use.* Prevention of coccidiosis caused by *Eimeria Tenella, E. Necatrix,* and *E. acervulina;* growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A articles containing not more than 25 percent nitromide, 30 percent sulfanitran, and 5 percent roxarsone; as sole source of organic arsenic

§ 558.415 Novobiocin.

(a) *Specifications.* Novobiocin is the antibiotic substance produced by growth of *Streptomyces niveus* or the same antibiotic substance produced by any other means.

(b) *Approvals.* Type A medicated feed article: 25 grams of novobiocin ac-

tivity per pound to No. 000009 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(d) *Special considerations.* Type D medicated feed article conforming to the requirements of this section is not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See § 556.460 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles as follows:

(1) *Chickens*—(i) *Amount.* Novobiocin, 6–7 mgs. per lb. body weight per day.

(*a*) *Indications for use.* Aid in the treatment of breast blisters associated with staphylococcal infections susceptible to novobiocin.

(*b*) *Limitations.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin acitivity per ton; not for laying chickens; feed 5 to 7 days; withdraw 4 days before slaughter.

(ii) *Amount.* Novobiocin, 10–14 mgs. per lb. body weight per day.

(*a*) *Indications for use.* Treatment of staphylococcal synovitis and generalized staphylococcal infections susceptible to novobiocin.

(*b*) *Limitations.* Administer, as sole ration, Type D article which contains not less than 350 grams of novobiocin activity per ton; not for laying chickens; feed 5 to 7 days; withdraw 4 days before slaughter.

(2) *Turkeys*—(i) *Amount. Novobiocin, 4–5 mgs. per lb. body weight per day.*

(*a*) *Indications for use.* Aid in the treatment of breast blisters associated with staphylococcal infections susceptable to novobiocin.

(*b*) *Limitations.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin activity per ton; not for laying turkeys; feed 5 to 7 days; withdraw 4 days before slaughter.

(ii) *Amount.* Novobiocin, 5–8 mgs. per lb. body weight per day.

(*a*) *Indications for use.* Aid in the control of recurring outbreaks of fowl cholera caused by strains of *Pasteurella multocida* susceptible to novobiocin following initial treatment with 7–8 mgs. per pound of body weight per day.

(*b*) *Limitations.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin activity per ton; feed 5 to 7 days; not for laying turkeys; withdraw 4 days before slaughter.

(iii) *Amount.* Novobiocin, 7–8 mgs. per lb. body per day.

(*a*) *Indications for use.* Treatment of staphylococcal synovitis and generalized staphylococcal infection susceptible to novobiocin; treatment of acute outbreaks of fowl cholera caused by strains of *Pasteurella multocida* susceptible to novobiocin.

(*b*) *Limitations.* Administer, as sole ration, Type D article which contains not less than 350 grams of novobiocin activity per ton; feed 5 to 7 days; not for laying turkeys; withdraw 4 days before slaughter.

(3) *Mink*—(i) *Amount.* 20 mgs. per lb. body weight per day.

(ii) *Indications for use.* For treatment of generalized infections, abscesses, or urinary infections caused by staphylococcal or other novobiocin sensitive organisms.

(iii) *Limitaions.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin activity per ton; feed for 7 days.

§ 558.430 Nystatin.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing nystatin as the sole drug are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.470 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens and turkeys as follows:

(1) *Amount.* 50 grams per ton.

(i) *Indications for use.* Chickens and turkeys; aid in control of crop mycosis and mycotic diarrhea (*Candida albicans*).

(ii) *Limitations.* Growing and laying chickens; growing turkeys.

(2) *Amount.* 100 grams per ton.

(i) *Indications for use.* Chickens and turkeys; treatment of crop mycosis and mycotic diarrhea (*Candida albicans*).

(ii) *Limitations.* Growing and laying chickens; growing turkeys; to be fed for 7 to 10 days.

§ 558.435 Oleandomycin.

(a) *Specifications.* It is the antibiotic substance produced by the growth of *Streptomyces antibioticus* or the same antibiotic substance produced by any other means, and for the purpose of this section refers to oleandomycin or feed grade oleandomycin.

(b) *Approvals.* Type A medicated feed article: 5 grams of oleandomycin activity per pound to No. 000069 in § 510.600(c) of this chapter.

(c) *Assay limits.* (1) Type D medicated feed articles containing up to 11.25 grams of oleandomycin per ton: 70 to 130 percent of labeled amount of product.

(2) Type C medicated feed articles containing more than 11.25 grams of oleandomycin per ton: 75 to 125 percent of labeled amount of product.

(d) *Related tolerances.* See § 556.480 of this chapter.

(e) *Special considerations.* (1) Do not use bentonite in Type B, C, or D medicated feed articles containing oleandomycin.

(2) Type C or D medicated feed articles for swine processed from other Type C medicated feed articles that contain not more than 225 grams of oleandomycin per ton and conforming to the requirements of paragraph (f)(1)(ii) of this section are not required to comply with the provisions of section 512(m) of the act.

(f) *Conditions of use.* (1) It is used in Type C and D medicated feed articles as follows:

(i) *Chickens and turkeys*—(*a*) *Amount per ton.* Oleandomycin, 1–2 grams.

(*b*) *Indications for use.* For increased rate of weight gain and improved feed efficiency for floor raised broiler chickens and growing turkeys.

(*c*) *Limitations.* Not to be used for laying hens.

(ii) *Swine*—(*a*) *Amount per ton.* Oleandomycin, 5–11.25 grams.

(*b*) *Indications for use.* For increased rate of weight gain and improved feed efficiency for confined and pasture raised swine.

(*c*) *Limitations.* Not to be used for breeding swine.

(2) [Reserved]

§ 558.450 Oxytetracycline.

(a) *Approvals.* (1) Type A medicated feed article equivalent to 10 and 50 grams per pound of oxytetracycline hydrochloride to No. 000069 in § 510.600(c) of this chapter.

(2) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 65 to 135 percent of labeled amount.

(c) *Special considerations.* (1) Type D medicated feed articles containing oxytetracycline only and conforming to the requirements of tables 1 and 2 of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) The amount of oxytetracycline is expressed in terms of an equivalent amount of oxytetracycline hydrochloride.

(d) *Related tolerances.* See § 556.500 of this chapter.

(e) *Conditions of use.* (1) It is used as follows:

TABLE 1.—*In Type D medicated feed articles for chickens and turkeys*

Oxytetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 50		Chickens and turkeys; during times of stress, for prevention of diseases named in this section caused by organisms susceptible to the named levels of the oxytetracycline salt.	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline.	
(ii) 50 to 100		1. Chickens; prevention of blue comb (nonspecific infectious enteritis).	do	
		2. Chickens and turkeys; prevention of early mortality of chicks and poults due to organisms susceptible to the oxytetracycline salt.	For chicks (1st 2 weeks of life); for poults (1st 4 weeks of life); as mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline.	
		3. Turkeys; prevention of hexamitiasis	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline.	
(iii) 100 to 200		1. Chickens; prevention of complicated chronic respiratory disease (air-sac infection) and control of complicated chronic respiratory mortality and severity during outbreaks; prevention of fowl cholera.	do	
		2. Chickens; treatment of blue comb (nonspecific infectious enteritis); prevention of infectious synovitis; control of complicated chronic respiratory disease (air-sac infection) by lowering mortality and severity of disease during outbreaks; reduction of lesion and mortality due to organisms susceptible to oxytetracycline in the presence of complicated chronic respiratory disease (air-sac infection).	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline in low-calcium Type D article containing 0.18 pct to 0.55 pct dietary calcium; not to be fed continuously for more than 5 d; low calcium Type D article feeds may be fed for a total of 3 to 5 d periods through the 1st 10 weeks of life with an interim period of 5 d between each low-calcium feeding. Not to be fed to laying chickens.	
		3. Turkeys; control of infectious sinusitis; prevention of infections synovitis.	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline.	
		4. Turkeys; control blue comb (nonspecific infections enteritis, mud fever); treatment of hexamitiasis.	do	
(iv) 200		1. Turkeys; control of infectious synovitis	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline.	
		2. Chickens; prevention of avian infectious hepatitis; prevention and control of *E. tennella*, cause of cecal coccidiosis.	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline in low-calcium Type D article containing 0.18 pct to 0.55 pct dietary calcium; not to be fed continuously for more than 5 d; low-calcium Type D article may be fed for a total of 35-d periods through the 1st 10 weeks of life with an interim period of 5 d between each low-calcium feeding. Not to be fed to laying chickens.	
		3. Chickens; control of infectious synovitis	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline.	
		4. Chickens; control of fowl cholera during periods of outbreaks.	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline; in low-calcium Type D article containing 0.18 pct to 0.55 pct dietary calcium; for 2 weeks from outbreak of disease, 5 d of low calcium and the remaining period on normal calcium; not to be fed to laying chickens.	
	Monensin 90 to 110	Broiler chickens; for the control of complicated chronic respiratory disease (CRD or air-sac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli;* and as an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tennella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*	Withdraw 72 h before slaughter; do not feed to laying chickens; feed continuously as sole ration; as monensin sodium.	000069
	Nequinate 18.16 (p.002 pct).	Broiler or fryer chickens; as an aid in prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervalina, E. maxima, E. brunetti* and *E. mivati.* For control of complicated chronic respiratory disease (air-sac infections) infectious synovitis, and treatment of blue comb (nonspecific infections enteritis).	As mono-alkyl (C_8–C_{18}) trimethyl ammonium oxytetracycline.	
(v) 500		Broiler chickens; as an aid in the reduction of mortality due to air-sacculitis (air-sac infection) caused by *Escherichia coli* sensitive to oxytetracycline.	Feed for 5 d as sole ration; treat at first clinical signs of disease; do not feed to laying hens; withdraw 24 hr prior to slaughter.	000069

TABLE 2.—*In Type D medicated feed articles for cattle*

Oxytetracycline in milligrams per head per day	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
75 to 80		Beef cattle; reduction of the incidence and severity of liver abscesses.	For beef cattle weighing over 400 lb; as mono-alkyl (C_8–C_{18}) trimethyl-ammonium oxytetracycline.	
	Diethylstilbestrol 10.	Fattening of beef cattle; reduction of the incidence and severity of liver abscesses.	For beef cattle weighing over 400 lb; as mino-alkyl (C_8–C_{18}) trimethyl-ammonium oxytetracycline; feed in not less than 1 lb of Type D article; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	

TABLE 3.—*In Type D medicated feed articles for fish*

Oxytetracycline	Combination	Indications for use	Limitations	Sponsor
(i) 250 mg per kilogram of fish per day (11.35 g per 100 lb of fish per day).	.....	Pacific salmon; for marking of skeletal tissue.....	For salmon not over 30 g body weight; administer as sole ration for 4 consecutive days in Type D article containing oxytetracycline hydrochloride or mono-alkyl (C_8—C_{18}) trimethyl-ammonium oxytetracycline; fish not to be liberated for at least 7 d following the last administration of Type D article.	.....
(ii) 2.5 to 3.75 g per 100 lb of fish per day.	.....	1. Salmonids; control of ulcer disease caused by *Hemophilus piscium*, furnnculosis caused by *Aeromonas salmonicida*, bacterial hemorrhagic septicemia caused by *Aeromonas liquefaciens*, and pseudomonas disease.	Administer as mono-alkyl (C_8—C_{18}) trimethyl ammonium oxytetracycline in Type D article for 10 d; do not liberate fish or slaughter fish for food for 21 d following the last administration of Type D article; do not administer when water temperature is below 9° C (48.2° F).	.....
		2. Catfish; control of bacterial hemorrhagic septicemia caused by *Aeromonas liquefaciens* and pseudomonas disease.	Administer as mono-alkyl (C_8—C_{18}) trimethyl ammonium oxytetracycline in Type D article for 10 d; do not liberate fish or slaughter fish for food for 21 d following the last administration of Type D article; do not administer when water temperature is below 16.7° C (62° F).	.....

(2) Oxytetracycline may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Robenidine hydrochloride in accordance with § 558.515.

(ii) [Reserved]

§ 558.460 Penicillin.

(a) *Specifications.* As procaine penicillin G or feed grade procaine penicillin.

(b) [Reserved]

(c) *Assay limits.* Type D medicated feed articles: 65 to 135 percent of labeled amount.

(d) *Special considerations.* Type D medicated feed articles containing penicillin and conforming to the requirements of paragraph (f)(1) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See § 556.510 of this chapter.

(f) *Conditions of use.* (1) It is used in Type D medicated feed articles as follows:

Penicillin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 1.5 to 42.5.....	Streptomycin 7.5 to 48.5.	Swine; growth promotion and feed efficiency.....	Feed not more than 50 g of type D article containing at least 1.5 g of penicillin and at least 7.5 g of streptomycin; as streptomycin sulfate.	.....
(ii) 2.4 to 38.0	Streptomycin 12.0 to 47.6.	Chickens and turkeys; growth promotion and feed efficiency.	Feed not more than 50 g of type D article containing at least 2.4 g of penicillin and at least 12 g of streptomycin; as streptomycin sulfate.	.....
(iii) 2.4 to 50	.....	Chickens, turkeys, and pheasants; growth promotion and feed efficiency.	.....	.....
(iv) 5 to 20.....	.....	Quail; growth promotion and feed efficiency.....	Quail, not over 5 weeks of age	.....
(v) 10 to 50.....	.....	Swine; growth promotion and feed efficiency	.....	.....
(vi) 22.5 to 50 (of the combination).	Streptomycin.....	Chickens; maintaining or increasing egg production.	Type D article contains 16.7 pct of penicillin; as procaine penicillin, as streptomycin sulfate.	.....
(vii) 45 to 90 (of the combination).	do	Swine; aid in the prevention of bacterial swine enteritis.	do	.....
(viii) 50 to 100	.....	1. Chickens; prevention of chronic respiratory disease (air-sac infection), blue comb (nonspecific infections enteritis).	.....	.....
		2. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).	.....	.....
(ix) 90 (of the combi- nation).	Streptomycin.....	1. Chickens; prevention of early mortality caused by organisms susceptible to penicillin and streptomycin.	For chicks; in starter ration containing 16.7 pct of penicillin; as procaine penicillin, as streptomycin sulfate.	.....
		2. Swine; treatment of bacterial swine enteritis.....	Type D article contains 16.7 pct of penicillin; as procaine penicillin; as streptomycin sulfate.	.....
(x) 90 to 180 (of the combination).	do	1. Chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	do	.....
		2. Turkeys; treatment of infections sinusitis; blue comb (mud fever), hexamitiasis.	do	.....
(xi) 90 to 270 (of the combination).	do	Swine; treatment of bacterial swine enteritis.....	Type D article contains 16.7 pct of penicillin; feed not more than 14 d; procaine penicillin; as streptomycin sulfate.	.....
(xii) 100.....	.....	1. Chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific enteritis).	.....	.....
		2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	.....	.....

(2) Penicillin may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium plus ethopabate in accordance with § 558.58.

(iii) Bacitracin methylene disalicylate in accordance with § 558.76.

(iv) Bacitracin zinc in accordance with § 558.78.

(v) Buquinolate in accordance with § 558.105.

(vi) Hygromycin B in accordance with § 558.274.

(vii) [Reserved]

(viii) Reserpine in accordance with § 558.505.

(ix) Roxarsone and zoalene in accordance with § 558.680.

(x) Zoalene in accordance with § 558.680.

§ 558.464 Poloxalene.

(a) *Specifications.* Poloxalene dry Type A medicated feed article and poloxalene liquid Type A medicated feed article contain poloxalene meeting the specifications given in § 520.1840 of this chapter.

(b) *Approvals.* Dry Type A medicated feed article of 53 percent and liquid Type A medicated feed article of 99.5 percent to No. 000007 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) For prevention of legume (alfalfa, clover) and wheat pasture bloat in cattle.

(2) Poloxalene dry Type A medicated feed article and liquid Type A medicated feed article must be thoroughly

blended and evenly distributed in feed prior to use. This may be accomplished by preparing a Type B medicated feed article prior to preparing the Type D medicated feed article. Dosage is 1 gram of poloxalene per 100 pounds of body weight daily and continued during exposure to bloat producing conditions. If bloating conditions are severe, the dose is doubled. Treatment should be started 2 to 3 days before exposure to bloat-producing conditions. Repeat dosage if animals are exposed to bloat-producing conditions more than 12 hours after the last treatment. Do not exceed the higher dosage levels in any 24-hour period.

§ 558.465 Poloxalene liquid Type C medicated feed article.

(a) *Specifications.* Poloxalene liquid Type C medicated feed article contains poloxalene meeting the specifications given in § 520.1840 of this chapter.

(b) *Approvals.* Type A medicated feed article of 99.5 percent to No. 000007 in § 510.600(c) of this chapter.

(c) *Assay limits.* Poloxalene liquid Type C medicated feed article: 85 to 115 percent of labeled amount.

(d) *Conditions of use.* (1) For control of legume (alfalfa, clover) and wheat pasture bloat in cattle, use 7.5 grams of poloxalene per pound of liquid Type C medicated feed article (1.65 percent weight/weight). Each animal must consume 0.2 pound of Type C article per 100 pounds of body weight daily for adequate protection.

(2) For control of legume (alfalfa, clover) bloat in cattle grazing of prebloom legumes, use 10.00 grams of poloxalene per pound of liquid Type C article (2.2 percent weight/weight). Each animal must consume 0.15 pound of Type C article per 100 pounds of body weight daily for adequate protection. If consumption exceeds 0.2 pound of Type C article per 100 pounds of body weight daily, cattle should be changed to a Type C article containing 7.5 grams of poloxalene per pound.

(3) Poloxalene liquid Type A article must be thoroughly blended and evenly distributed into a liquid Type C article and offered to cattle in a covered liquid Type C article feeder with lick wheels. The formula for the liquid Type C article, on a weight/weight basis, is as follows: Ammonium polyphosphate 2.66 percent, phosphoric acid (75 percent) 3.37 percent, sulfuric acid 1.00 percent, water 10.00 percent, and molasses sufficient to make 100.00 percent, vitamins A and D and/or trace minerals may be added. One free-turning lick wheel per 25 head of cattle must be provided.

(4) The medicated liquid Type C article must be introduced at least 2 to 5 days before legume consumption to accustom the cattle to the medicated liquid Type C article and to lick wheel feedings. If the medicated feeding is interrupted, this 2- to 5-day introductory feeding should be repeated.

§ 558.485 Pyrantel tartrate.

(a) *Approvals.* (1) Type A medicated feed articles: 10.6 and 17.6 percent (48 and 80 grams per pound) to No. 000069 in 21 CFR 510.600(c).

(2) Type A medicated feed articles: 10.6 percent (48 grams per pound) to No. 017800 in 21 CFR 510.600(c).

(b) *Assay limits.* Type D medicated feed article: 88 to 118 percent of labeled amount.

(c) *Related tolerances.* See § 556.560 of this chapter.

(d) *Special considerations.* (1) Consult veterinarian before using in severely debilitated animals.

(2) The manufacture of Type D medicated feed articles processed from Type C medicated feed articles does not require compliance with the provisions of section 512(m) of the act when they contain:

(i) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate and used as provided in paragraph (e) (1) or (2) of this section.

(ii) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate with not more than 0.055 percent (500 grams/ton) carbadox when produced from a fixed combination Type C medicated feed article or from individual Type C articles and used as provided in paragraph (e)(4) of this section.

(3) Do not mix in Type B, C, or D medicated feed articles containing bentonite.

(4) Type D articles processed from Type C articles that contain not more than 0.881 percent of pyrantel tartrate and that comply with the provisions of paragraph (e)(3) of this section are not required to comply with the provisions of section 512(m) of the act.

(5) Complete feeds processed from feed premixes that contain not more than 17.6 percent (80 grams per pound) pyrantel tartrate and comply with the provisions of paragraph (e)(1), (2), or (3) or this section are not required to comply with the provisions of section 512(m) of the act.

(e) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per ton.* 96 grams (0.0106 percent).

(i) *Indications for use.* Aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Feed continuously as sole ration; withdraw 24 hours prior to slaughter.

(2) *Amount per ton.* 96 grams (0.0106 percent).

(i) *Indications for use.* For the removal and control of large roundworm (*Ascaris suum*) infections.

(ii) *Limitations.* Feed for 3 days as sole ration; withdraw 24 hours prior to slaughter.

(3) *Amount per ton.* 800 grams (0.0881 percent).

(i) *Indications for use.* For the removal and control of large roundworm (*Ascaris suum*) and nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* As a single therapeutic treatment in Type D article; feed at the rate of 1 lb. of Type D article per 40 lb. of body weight for animals up to 200 lb. and 5 lb. of Type D article per head for animals 200 lb. or over; withdraw 24 hours prior to slaughter.

(4) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and carbadox, 50 grams (0.0055 percent).

(i) *Indications for use.* For control of swine dysentery (vibrionic dysentery, bloody scours or hemorrhage dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections, aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Do not feed to swine weighing over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severely debilitated animals; feed continuously as sole ration. Do not use in Type D medicated feed articles containing less than 15 percent crude protein.

§ 558.505 Reserpine.

(a) *Chemical name.* 3,4,5-Trimethoxybenzoyl methyl reserpate.

(b) *Specifications.* For the purpose of this section, the term reserpine refers to reserpine or feed grade reserpine; assay 94–102 percent (anhydrous basis).

(c) *Approvals.* Type A medicated feed article: 0.08 percent to No. 000003 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(e) [Reserved]

(f) *Related tolerances.* See § 556.570 of this chapter.

(g) *Conditions of use.* It is used in Type D medicated feed articles for turkeys as follows:

(1) *Amount per ton.* Reserpine, 0.182 gram (0.00002 percent).

(i) *Indications for use.* To aid in the prevention of aortic rupture.

(ii) *Limitations.* For turkeys over 4 weeks of age.

(2)–(4) [Reserved]

(5) *Amount per ton.* Reserpine, 0.908 gram (0.0001 percent).

(i) *Indications for use.* To lessen the incidence or aortic rupture.

(ii) *Limitations.* For turkeys over 4 weeks of age; feed not to exceed 5 days.

§ 558.515 **Robenidine hydrochloride.**

(a) *Chemical name.* 1,3-Bis(parachloro - benzylideneamino) - guanidine hydrochloride.

(b) *Approvals.* Type A medicated feed article: 30 grams per pound has been granted to No. 010042 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount. Type A medicated feed article: 95 to 115 percent of labeled amount.

(d) *Special considerations.* Type D medicated feed articles containing robenidine hydrochloride must be fed within 50 days from the date of manufacture. Do not use in Type B, C, or D articles containing bentonite.

(e) *Related tolerances in edible products.* See § 556.580 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles for chickens as follows:

(1) *For boiler and fryer chickens*—(i) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunette, E. tenella, E. acervulina, E. maxima,* and *E. necatrix.*

(*b*) *Limitations.* Do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter.

(ii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus roxarsone, 22.5–45.4 grams (.005 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix* and increased rate of weight gain.

(*b*) *Limitations.* Do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter; as sole source of organic arsenic. Roxarsone provided by No. 017210, § 510.600(c) of this chapter.

(iii) *amount per ton.* Robenidine hydrocholride, 30 grams (0.0033 percent) plus chlortetracycline, 100 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* as an aid in the control of chronic respiratory disease (CRD) caused by *M. gallisepticum* susceptible to chlortetracycline; as an aid in the control of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline.

(*b*) *Limitations.* For broiler or fryer chickens only; withdraw 5 days prior to slaughter; do not feed to layers, feed continuously as sole ration; as chlortetracycline hydrochloride provided by No. 010042, § 510.600(c) of this chapter.

(iv) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 200 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* as an aid in the treatment of infectious synovitis caused by *M. synoviae suscpetible to chlortetracycline; as an aid in the control of chronic respiratory disease (CRD) caused by M. gallisepticum* susceptible to chlortetracycline.

(*b*) *Limitations.* Withdraw 5 days prior to slaughter; do not feed to layers; feed continuously as sole ration; as chlortetracycline hydrochloride provided by No. 010042, § 510.600(c) of this chapter.

(v) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 500 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* as an aid in the reduction of mortality due to *E. coli* susceptible to chlortetracycline.

(*b*) *Limitations.* Withdraw 5 days prior to slaughter; do not feed to layers; not to be fed continuously for more than 5 days; as chlortetracycline hydrochloride provided by No. 010042, § 510.600(c) of this chapter.

(vi) *Amount per ton.* Robenidine hydrochloride, 30 grams (.0033 percent) plus bacitracin, 4 to 50 grams (as zinc bacitracin).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix* and, in the presence of 4 to 30 grams per ton of bacitracin, for increased rate of weight gain; in the presence of 27 to 50 grams per ton of bacitracin, for improved feed efficiency.

(*b*) *Limitations.* Feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days prior to slaughter; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Robenidine hydrochloride, 30 grams (.0033 percent) plus bacitracin, 4 to 50 grams (as bactracin methylene disalicylate).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix,* and: in the presence of 4 to 30 grams per ton of bacitracin, for increased rate of weight gain; in the presence of 27 to 50 grams per ton of bacitracin, for improved feed efficiency.

(*b*) *Limitations.* Feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days prior to slaughter; as bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.

(viii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus lincomycin, 2 grams.

(*a*) *Indications for use.* For increase in rate of weight gain and improved feed efficiency and as an aid in prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix.*

(*b*) *Limitations.* Do not feed to laying hens; feed continuously as the sole ration; withdraw 5 days before slaughter; lincomycin as provided by No. 000009, § 510.600(c) of this chapter; approval for this combination granted to No. 000009, § 510.600(c) of this chapter.

(2) *For broiler chickens*—(i) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus oxytetracycline, 200 grams.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by *eimeria mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* for the control of complicated chronic respiratory disease (CRD or airsac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli.*

(iii) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 5 days before slaughter; do not use in Type B, C, or D articles containing bentonite; Type C or D articles must be used within 50 days of date of manufacture; oxytetracycline as provided by No. 000069 of this chapter.

§ 558.525 **Ronnel.**

(a) *Chemical name. O,O*-Dimethyl *O*-(2,4,5-trichlorophenyl) phosphorothioate.

(b) *Approvals.* (1) Type A medicated feed article: 18 and 40 percent to No. 025700 in § 510.600(c) of this chapter.

(2) Type C medicated feed article: 5.5 percent in mineral mix to No. 021930 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type C medicated feed article: 80 to 120 percent of labeled amount.

(d) *Special considerations.* (1) Maximum level permitted in a Type C medicated feed article is 6 percent.

(2) The label shall bear adequate directions and warnings for use, which shall also include:

(i) Type C medicated feed articles containing ronnel shall be thoroughly mixed with ground grain for top dressing or with complete ration.

(ii) A statement that ronnel-Type C articles are to be used as sole source of ronnel.

(iii) "Warning-Ronnel is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after exposure to cholinesterase inhibiting drugs, pesticides, or chemicals."

(e) *Related tolerances.* See 40 CFR 180.177.

(f) *Conditions of use.* It is used in Type C medicated feed articles for beef cattle and nonlactating dairy animals as follows:

(1) *Amount.* 0.00078 lb. (0.35 gram) per 100 lb. body weight per day for 14 days.

(i) *Indications for use.* Control of grubs.

(ii) *Limitations.* Feed 0.00078 lb. (0.35 gram) per 100 lb. of animal weight per day for 14 days in a Type C article containing not over 0.26 percent ronnel; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(2) *Amount.* 0.0018 lb. (0.82 gram) per 100 lb. body weight per day for 7 days.

(i) *Indications for use.* Control of grubs; aid in the reduction of cattle lice, when the drug is used for cattle grub control.

(ii) *Limitations.* Feed 0.0018 lb. (0.82 gram) per 100 lb. animal weight per day for 7 days in a Type C article containing not over 6 percent ronnel; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(3) *Amount.* 0.01375 lb. (6.24 gram) per 100 lb. body weight per month for not less than 75 days.

(i) *Indications for use.* Control of grubs and hornflies.

(ii) *Limitations.* Feed 0.25 lb. of a mineral Type C article in granular form containing 5.5 percent ronnel per 100 lb. of animal weight per month for not less than 75 days; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(4) *Amount.* 0.0009 lb. (0.41 gram) per 100 lb. body weight per day for 14 days.

(i) *Indications for use.* Control of grubs.

(ii) *Limitations.* Feed 0.0009 lb. (0.41 gram) per 100 lb. of animal weight per day for 14 days in a Type C article containing 0.3 percent ronnel; withdraw from dairy animals 10 days before calving, if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(5) *Amount.* 0.012 lb. (5.5 gram) per 100 lb. body weight per month for not less than 75 days.

(i) *Indications for use.* Control of grubs and hornflies.

(ii) *Limitations.* Feed 0.2 lb. of mineral Type C article containing 6 percent ronnel per 100 lb. of animal weight per month for not less than 75 days; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment.

§ 558.526 Ronnel liquid Type C medicated feed article.

(a) *Approvals.* To No. 025700 in § 510.600(c) of this chapter, use of a 20 percent liquid Type A medicated feed article for the manufacture of a 0.72 percent ronnel liquid Type C medicated feed article.

(b) *Assay limits.* Type C medicated feed article: 80 to 120 percent of labeled amount.

(c) *Related tolerances.* See 40 CFR 180.177.

(d) *Conditions of use.* (1) It is used as a 0.72 percent liquid Type C medicated feed article for beef cattle and nonlactating dairy animals for control of grubs.

(2) Both the 7 and 14-day feeding programs require 1.75 pounds of 0.72 percent Ronnel liquid Type C medicated feed article for each 100 pounds of body weight.

(i) Feed for 7 days, 0.25 pound of 0.72 percent liquid Type C medicated feed article added to feed per 100 pounds of body weight per day.

(ii) Feed for 14 days, 0.25 pound of 0.72 percent liquid Type C medicated feed article added to feed per 200 pounds of body weight per day.

(3) Must be evenly top-dressed over the grain portion of the ration or over the mixed total ration.

(4) Treat cattle as soon as possible after heel fly activity ceases, and before grubs reach the backs of the animals. Ronnel is not fully effective during the latter stages of grub development, when grubs have reached the backs of animals.

(5) Treat southern area cattle July through September (7 or 14-day treatment). Treat northern area cattle August through October (7-day treatment) or August through December (14-day treatment).

(6) Dairy animals should be treated early in their dry period but only if the dry period occurs between the end of the adult heel fly season and before grubs reach the back of the animal.

(7) Withdraw from dairy animals 10 days before calving. If animals freshen during feeding of a Type C article, or if Type C article has not been withdrawn 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment.

(8) Withdraw 10 days prior to slaughter.

(9) Warning—Ronnel is a cholinesterase inhibitor. Do not use simultaneously or within a few days before or after treatment with or exposure to any cholinesterase inhibiting drugs, pesticides, or chemicals.

(10) Use as sole source of ronnel.

(11) Do not feed animals that are sick, under stress (shipping, dehorning, castration), or that have been weaned within the preceding 3 weeks.

(12) Wash hands with soap and water after handling. This material contains a cholinesterase inhibitor. Treat symptomatically. Atropine is an antidote.

(13) This drug is toxic to fish. Keep out of lakes, streams, and ponds. Do not contaminate water by cleaning of equipment or disposal of wastes. Do not reuse empty container; destroy it by burning or burying in noncroplands away from water supplies.

§ 558.530 Roxarsone.

(a) *Approvals.* Type A medicated feed articles; 10, 20, and 50 percent to No. 011801 in § 510.600(c) of this chapter.

(b) *Assay limits.* Type D medicated feed articles: 85 to 120 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing roxarsone only and conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens and turkeys as follows:

(1) *Grams per ton.* Roxarsone 22.7 to 45.4 (0.0025 to 0.005 percent).

(2) *Indications for use.* For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(3) *Limitations.* Withdraw 5 days before slaughter; as sole source of organic arsenic.

(4) *Permitted combinations.* It may be used in accordance with the provisions of this section in the combinations provided, as follows:

(i) Aklomide in accordance with § 558.35.

(ii) Amprolium in accordance with § 558.55.

(iii) Amprolium and ethopabate in accordance with § 558.58.

(iv) Bacitracin methylene desalicylate in accordance with § 558.76.

(v) Bacitracin zinc in accordance with § 558.78.

(vi) Buquinolate in accordance with § 558.105.

(vii) Chlortetracycline in accordance with § 558.128.

(viii) Clopidol in accordance with § 558.175.

(ix) Decoquinate in accordance with § 558.195.

(x) Monensin in accordance with § 558.355.

(xi) Nequinate in accordance with § 558.365.

(xii) Nitromide and sulfanitran in accordance with § 558.376.

(xiii) Robenidine hydrochloride in accordance with § 558.515.

(xiv) Sulfadimethoxine, ormetoprim in accordance with § 558.575.

(xv) Zoalene in accordance with § 558.680.

(xvi) Penicillin and zoalene in accordance with§ 558.680.

(xvii) Bambermycins alone and in combination in accordance with § 558.95.

§ 558.565 Styrylpyridinium chloride, diethylcarbamazine (as base).

(a) *Chemical name.* (1) Styrylpyridinium chloride: 2-(*p*-Chlorostyryl)-1-methylpyridinium chloride.

(2) Diethylcarbamazine: *N,N*-Diethyl - 4 - methyl - 1 - piperazine - carboxamide.

(b) *Approvals.* Type D medicated feed articles: 0.035 percent styrylpyridinium chloride, and 0.021 percent diethylcarbamazine (as base) to No. 010042 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) it is used for the control of hookworms (*Ancylostoma caninum*) and roundworms (*Toxocara canis*) and for the prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

(2) Type D medicated feed articles containing 0.035 percent styrylpyridinium chloride and 0.021 percent diethylcarbamazine (as the base) is administered to dogs as follows: Maximum stressed dogs are fed an amount of the Type D article in ounces equal to the dogs body weight in pounds divided by 4. Medium stressed dogs are fed an amount of the Type D article in ounces equal to the dogs body weight in pounds divided by 4.5. Low stressed dogs are fed an amount of the Type D article in ounces equal to the dogs body weight in pounds divided by 5. Underweight dogs are fed 10 percent more than the amounts specified in this paragraph. Overweight dogs are fed 10 percent less than the amounts specified in this paragraph, with adjustments made every 7 days until the desired body weight is obtained.

(3) Dogs with established heartworm infections should not be treated with the drug until they have been converted to a negative status. For the prevention of heartworm infestation, the drug should be administered before the mosquito season and as soon as young puppies are born. The drug should be administered continuously during periods of exposure to hookworm, roundworm, and heartworm infestations to control recurring burdens of hookworms and roundworms and prevent the maturation of immature heartworms (third stage infective larvae) into adults.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 558.575 Sulfadimethoxine, ormetoprim.

(a) *Chemical names.* (1) Sulfadimethoxine: *N'* (2,6-Dimethoxy-4-pyrimidinyl)-sulfanilamide.

(2) Ormetoprim: 2,4-Diamino-5(6-methylveratryl) pyrimidine.

(b) *Approvals.* Type A medicated feed articles: 25 percent of sulfadimethoxine and 15 percent of ormetoprim to No. 000004 in § 510.600(c) of this chapter.

(c) *Assay limits.* (1) Type D medicated feed articles containing 0.01 percent of combined drug: 75 to no more than 125 percent of ormetoprim and sulfadimethoxine.

(2) Type D medicated feed articles containing 0.02 percent of combined drug: 85 to 115 percent of ormetoprim and sulfadimethoxine.

(d) *Related tolerances.* See §§ 556.490 and 556.640 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for animals as follows:

(1) *Broiler chickens*—(i) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely, *E. tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis) and *P. multocida* (fowl cholera).

(*b*) *Limitations.* Feed as sold ration; withdraw 5 days before slaughter.

(ii) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent) plus roxarsone, 22.7 grams (0.0025 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely *E. tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli,* (colibacillosis); and *P. multocida* (fowl cholera); growth promotion and feed efficiency; improving pigmentation.

(*b*) *Limitations.* Withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) *Replacement chickens*—(i) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent).

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely *E. tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis) and *P. multocida* (fowl cholera).

(iii) *Limitations.* Feed as a sole ration; do not feed to chickens over 16 weeks (112 days) of age; withdraw 5 days before slaughter.

(3) *Turkeys.*—(i) *Amount per ton.* Sulfadimethoxine, 56.75 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to turkeys, namely, *E. adenoeides, E. gallopavonis,* and *E. meleagrimitis* and bacterial infection due to *P. multocida* (fowl cholera).

(*b*) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

(ii) *Amount per ton.* Sulfadimethoxine, 56.5 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent) plus ipronidazole, 56.75 grams (0.00625 percent).

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to turkeys, namely, *E. adenoeides, E. gallopavonis,* and *E. meleagrimitis;* bacterial infections due to *P. multocida* (fowl cholera); and blackhead (histomoniasis).

(*b*) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

§ 558.579 Sulfaethoxypyridazine.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.650 of this chapter.

(e) *Conditions of use.* It is used in Type C or D medicated feed articles as follows:

(1) *Swine.*—(i) *Amount.* 25 milligrams per pound body weight per day.

(ii) *Indications for use.* For treatment of bacterial scours, pneumonia, enteritis, bronchitis, septicemia accompanying *Salmonella choleraesuis* infection.

(iii) *Limitations.* Administer 1,000 grams per ton (0.11 percent) in Type D article for not less than 4 days nor more than 10 days; do not treat within 10 days of slaughter; as sole source of sulfonamide; for use by or on the order of a licensed veterinarian.

(2) *Cattle.*—(i) *Amount.* 25 milligrams per pound body weight per day.

(ii) *Indications for use.* For treatment of respiratory infections (pneumonia, shipping fever), foot rot, calf scours; as adjunctive therapy in septicemia accompanying mastitis and metritis.

(iii) *Limitations.* Administer Type C article as a top dressing or in mixed feed for 4 days; do not treat within 16 days of slaughter; as sole source of sulfonamide; milk that has been taken from animals during treatment and for 72 hours (6 milkings) after the latest treatment must not be used for food; for use by or on the order of a licensed veterinarian.

§ 558.582 Sulfamerazine.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.660 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed article for rainbow trout, brook trout, and brown trout as follows:

(1) *Amount.* 10 grams of sulfamerazine per 100 pounds of fish per day.

(2) *Indications for use.* Control of furunculosis.

(3) *Limitations.* Treat for not more than 14 days; do not treat within 3 weeks of marketing or stocking in stream open to fishing.

§ 558.615 Thiabendazole.

(a) *Chemical name.* 2-(4'-Thiazolyl)-benzimidazole.

(b) *Specifications.* Conforms to N.F. XII specifications.

(c) *Approvals.* In dry Type A medicated feed articles: 22, 44.1, 66.1 percent. The 66.1 percent level is solely for the manufacture of cane molasses liquid Type C medicated feed article which is mixed in dry feeds. See No. 000006 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed articles containing less than 7 percent thiabendazole: 85–115 percent of labeled amount. Type D medicated feed articles containing 7 percent or more of thiabendazole: 90–110 percent of labeled amount.

(e) *Special consideratons.* Maximum level permitted in a Type C medicated feed article: 9.9 percent. Not to be used in Type B, C, or D articles containing bentonite.

(f) *Related tolerances.* See § 556.730 of this chapter.

(g) *Conditions of use.* It is used in Type C and D medicated feed article as follows:

(1) *Cattle.*—(i) *Amount.* 3 grams per 100 lb. body weight.

(*a*) *Indications for use.* Control of infections of gastrointestinal roundworms (*Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Namatodirus spp., Oesophagostomum radiatum*).

(*b*) *Limitations.* Use 3 grams per 100 lb. body weight at a single dose; may repeat once in 2 to 3 weeks; do not treat animals within 3 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(ii) *Amount.* 5 grams per 100 lb. body weight.

(*a*) *Indications for use.* Control of severe infections of gastrointestinal roundworms (*Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Nematodirus spp., Oesophagostomum radiatum*); control of infections of *Cooperia spp.*

(*b*) *Limitations.* 5 grams per 100 lb. body weight at a single dose or divided into 3 equal doses, administered 1 dose each day, on succeeding days; may repeat once in 2 to 3 weeks; do not treat animals within 3 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(2) *Goats.*—(i) *Amount.* 3 grams per 100 lb. body weight.

(ii) *Indications for use.* Control of severe infections of gastrointestinal roundworms (*Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Cooperia spp., Nematodirus spp., Bunostomum spp., Strongyloides spp., Chabertia spp.,* and *Oesophagostomum spp.*).

(iii) *Limitations.* 3 grams per 100 lb. body weight at a single dose; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(3) *Sheep and goats.*—(i) *Amount.* 2 grams per 100 lb. body weight.

(ii) *Indications for use.* Control of infections of gastrointestinal roundworms *Trichostrongylus spp., Haemonchus spp., Ostertagia spp., Cooperia spp., Nematodirus spp., Bunostomum spp., Strongyloides spp., Chabertia spp.,* and *Oesophagostomum spp.*); also active against ova and larvae passed by sheep from 3 hours to 3 days after Type C or D article is consumed (good activity against ova and larvae of *T. colubriformis* and *axei, Ostertagia spp., Nematodirus spp., Strongyloides spp.*; less effective against those of *Haemonchus contortus* and *Oesophagostomum spp.*).

(iii) *Limitations.* Use 2 grams per 100 lb. body weight at a single dose; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(4) *For swine.*—(i) *Amount.* 45.4–908 grams per ton (0.005–0.1 percent).

(ii) *Indications for use.* Aid in the prevention of infections of large roundworms (*genus ascaris*).

(iii) *Limitations.* Administer continuously Type D article containing 0.05–0.1 percent thiabendazole per ton for 2 weeks followed by Type D article containing 0.005–0.02 percent thiabendazole per ton for 8–14 weeks; do not treat animals within 30 days of slaughter.

§ 558.625 Tylosin.

(a) *Specifications.* Tylosin is the antibiotic substance produced by growth of *Streptomyces fradiae* or the same antibiotic substance produced by any other means.

(b) *Approvals.* Type A medicated feed articles containing drug substance with diluent or Type B medicated feed articles containing drug substance with diluent plus vitamins, minerals, and/or other nutrient ingredients granted to firms as sponsor(s) and identified by drug listing numbers in § 510.600(c) of this chapter for the specific usage indicated in paragraph (f) of this section:

(1) To 000986: 10, 40 and 100 grams per pound, paragraphs (f)(1)(ii) through (f)(1)(vi) of this section; 40 grams per pound, paragraph (f)(1)(i) of this section.

(2) To 017255: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(3) To 043733: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(4) To 011490: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(5) To 017300: 0.4, 0.8, and 1 gram per pound, paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound, paragraph (f)(1)(i) and (vi)(*a*) of this section; 40 grams per pound, paragraph (f)(1)(i) and (vi) (*a*) (*b*) (*c*), and (*d*) of this section.

(6) To 018356: 0.66, 1.33, 6.66 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(7) To 017162: 0.4 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.

(8) To 035369: 4 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(9) To 043727: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(10) To 012286: 0.4, 0.8, and 1.6 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(11) To 017274: 4, 8, or 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(12) To 021930: 2 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(13) To 035393: 0.4 and 2 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(14) To 016968: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(15) To 026186: 4, 10, and 20 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(16) To 024817: 5 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(17) To 021780: 0.8 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(18) To 017434: 0.4 and 4 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(19) To 033999: 0.8 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(20) To 033071: 0.4 and 0.8 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(21) To 043426: 2.0 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(22) To 026282: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(23) To 030804: 0.8 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(24) To 025796: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(25) To 043743: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(26) To 034418: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(27) To 020275: 8 and 40 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(28) To 034139: 4 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(29) To 043744: 0.4 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(30) [Reserved]
(31) To 029341: 5 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(32) To 018597: 0.4 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(33) To 012323: 0.8 and 2 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(34) To 028260: 0.8 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(35) To 039741: 2 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(36) To 013975: 0.8 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(37) To 044142: 0.5 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(38) To 011749: 1 or 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(39) To 012518: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(40) To 035955: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(41) To 025066: 0.8 gram per pound; paragraph (f)(1)(vi)(*a*) of this section.
(42) To 010439: 0.4, 0.5, and 2 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(43) [Reserved]
(44) To 017180: 4 and 10 grams per pound: paragraph (f)(1)(vi)(*a*) of this section.
(45) To 017139: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(46) [Reserved]
(47) To 024761: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(48) To 017790: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(49) To 021533: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(50) To 018083: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(51) To 017519: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.
(52) To 021810: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

(c) *Assay limits.* Type D medicated feed articles: 75 percent of labeled amount.

(d) *Special considerations.* The manufacture of Type D medicated feed articles containing tylosin phosphate does not require compliance with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act if:

(1) Processed from Type C articles for:

(i) Chickens at not more than 200 grams per ton.

(ii) Swine at not more than 500 grams per ton.

(iii) Cattle at not more than 360 grams per ton and complying with paragraph (f)(1)(i) of this section.

(2) Processed from Type A articles which contain not more than 10 grams of tylosin per pound and conforming to the provisions of paragraph (f)(1)(vi)(*a*) of this section.

(e) *Related tolerances.* See § 556.740 of this chapter.

(f) *Conditions of use.* (1) It is used in Type C and D medicated feed articles as follows:

(i) *For beef cattle—(a) Amount per ton.* 8–10 grams.

(*b*) *Indications for use.* For reduction of incidence of liver abscesses caused by *Sphaerophorus necrophorus* and *Corynebacterium pyogenes.*

(*c*) *Limitations.* As tylosin phosphate; each animal must receive not more than 90 milligrams per day and not less than 60 milligrams per day; feed continuously as sole ration.

(ii) *Broiler chickens.—(a) Amounts per ton.* Tylosin, 800–1000 grams.

(*b*) *Indications for use.* To aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum.*

(*c*) *Limitations.* As tylosin phosphate; withdraw 5 days before slaughter; administer in Type D article to chickens 0 to 5 days of age, follow with second administration in Type D article for 24 to 48 hours at 3 to 5 weeks of age.

(iii) *Chickens—(a) Amounts per ton.* Tylosin, 4–50 grams.

(*1*) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(*2*) *Limitations.* As tylosin phosphate.

(b) [Reserved]

(iv) *Laying chickens—(a) Amount per ton.* Tylosin, 20–50 grams.

(*b*) *Indications for use.* For improved feed efficiency.

(*c*) *Limitations.* As tylosin phosphate.

(v) *Replacement chickens—(a) Amount per ton.* Tylosin, 1,000 grams.

(*b*) *Indications for use.* To aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum.*

(*c*) *Limitations.* As tylosin phosphate; withdraw 5 days before slaughter; administer in Type D article to chickens 0 to 5 days of age, follow with second administration in Type D article for 24 to 48 hours at 3 to 5 weeks of age.

(vi) *Swine—(a) Amount per ton.* Tylosin, 10–100 grams.

(*1*) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(*2*) *Limitations.* As tylosin phosphate; continuous use as follows: *Grams per ton;* 20–100, prestarter or starter; 20–40, grower; 10–20, finisher.

(*b*) *Amount per ton.* Tylosin, 40–100 grams.

(*1*) *Indications for use.* Prevention of swine dysentery (vibrionic).

(*2*) *Limitations.* Use 100 grams per ton for at least 3 weeks followed by 40 grams per ton until market weight; as tylosin phosphate.

(*c*) *Amount per ton.* Tylosin, 40–100 grams.

(*1*) *Indications for use.* Treatment and control of swine dysentery (vibrionic).

(*2*) *Limitations.* Administer in Type D article as tylosin phosphate after treatment with tylosin in drinking water as tylosin base; 0.25 gram per gallon in drinking water for 3–10 days, 40–100 grams per ton in Type D article for 2–6 weeks.

(*d*) *Amount per ton.* Tylosin, 100 grams.

(*1*) *Indications for use.* Maintaining weight gains and feel efficiency in presence of atrophic rhinits.

(*2*) *Limitations.* As tylosin phosphate

(2) [Reserved]

§ 558.630 Tylosin and sulfamethazine.

(a) *Specifications.* (1) Tylosin is the antibiotic substance produced by growth of *Streptomyces fradiae* or the same antibiotic substance produced by any other means.

(2) Sulfamethazine is the chemical N'-(4, 6-dimethyl-2-pyrimidiny) sulfanilamide.

(b) *Approvals.* Type A medicated feed articles containing drug substances with diluent, on Type B medicated feed article containing drug substances with diluent plus vitamins, minerals, and/or other nutrient substances, the drug substances being a combination of equal amounts of tylosin and sulfamethazine, granted to firms as sponsor(s) and identified by drug listing numbers in § 510.600(c) of this chapter for the conditions of use indicated in paragraph (f) of this section:

(1) To 000986: 40 grams per pound each, paragraph (f)(2)(i) of this section.

(2) To 000986, 012190: 10 grams per pound each paragraph (f)(2)(i) of this section.

(3) To 011490, 016968, 017255, 025796, 026186, 034500, 035955, 043743: 10 grams per pound each, paragraph (f)(2)(ii) of this section.

(4) To 021780: 2 grams per pound each, paragraph (f)(2)(ii) of this section.

(5) To 017800: 40 grams per pound each paragraph (f)(2)(ii) of this section.

(6) To 017139: 4, 10, or 20 grams per pound each, paragraph (f)(2)(ii) of this section.

(c) *Assay limits.* Type D medicated feed articles: 75 to 125 percent of tylosin and 80 to 120 percent of sulfamethazine.

(d) [Reserved].

(e) *Related tolerances.* See §§ 556.670 and 556.740 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per ton.* Tylosin, 100 grams plus sulfamethazine, 100 grams.

(2) *Indications for use.* (i) Maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetella, bronchiseptica* rhinitis; prevention of swine dysentery (vibrionic); control of swine pneumonias caused by bacterial phathogens (*P. mutocida* and/or *C. pyogens*); for reducing the incidence of cervical lymphadenitis (jowl abscesses) caused by Group E Streptococci. Only the sulfamethazine portion of this combination is active in controlling jowl abscesses.

(ii) Maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetella bronchiseptica* rhintis; prevention of swine dysentery (vibrionic); control of swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogens*).

(3) *Limitations.* As tylosin phosphate; withdraw 5 days before slaughter.

§ 558.635 Virginiamycin.

(a) *Specifications.* Virginiamycin is the antibiotic substance produced by the growth of *Streptomyces virginiae* or the same antibiotic substance produced by any other means.

(b) Type A medicated feed articles: 2.2 percent virginiamycin activity (10 grams per pound), 11 percent virginiamycin activity (50 grams per pound), and 50 percent virginiamycin activity (227 grams per pound) to No. 000007 in § 510.600 (c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 70 to 130 percent of the labeled amount of the drug.

(d) *Related tolerances.* See § 556.750 of this chapter.

(e) *Special considerations.* (1) Not for use in breeding swine over 120 pounds.

(2) Dilute Type A article with at least 10 pounds of a feed ingredient prior to final mixing in 1 ton of Type D article.

(3) Type D medicated feed articles for swine, processed from Type C articles that contain up to 2,000 grams of virginiamycin per ton and conform to the requirements of paragraph (f) of this section are not required to comply with the provisions of section 512(m) of the act.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per tone.* 100 grams (for 2 weeks).

(i) *Indications for use.* Treatment of swine dysentery in nonbreeding swine.

(ii) *Animal weight.* Over 120 pounds.

(2) *Amount per ton.* 100 grams for 2 weeks, 50 grams thereafter.

(i) *Indications for use.* Treatment and control of swine dysentery.

(ii) *Animal weight.* Up to 120 pounds.

(3) *Amount per ton.* 25 grams.

(i) *Indications for use.* Aid in control of swine dysentery. For use in swine or in swine on premises with a history of swine dysentery but where symptoms have not yet occurred.

(ii) *Animal weight.* Up to 120 pounds.

(4) *Amount per ton.* 10 grams.

(i) *Indications for use.* Increased rate of weight gain and improved feed efficiency (starter and grower Type D articles only).

(ii) *Animal weight.* Weaning to 120 pounds.

§ 588.680 Zoalene.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles for poultry containing zoalene as a sole drug, processed from Type C articles containing not more than 0.0375 percent zoalene, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.770 of this chapter.

(e) *Conditions of use.* (1) It is used in Type D medicated feed articles for chickens and turkeys as follows:

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 36.3 to 113.5 (0.004 to 0.0125 pct).	.....	Replacement chickens; development of active immunity to coccidiosis.	In type D articles only; grower type D article not to be fed to birds over 14 weeks of age; as follows—.	.....

Growing conditions	Starter type D article	Grower type D article
	Grams per ton	*Grams per ton*
Severe exposure.....	113.5 (0.0125 pct)	75.4–113.5 (0.0083 to 0.0125 pct)
Light to moderate exposure.	75.4–113.5 (0.0083 to 0.0125 pct).	36.3–75.4 (0.004 to 0.0083 pct)

Arsanilate sodium 90 (0.01 pct).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	.....
Arsanilic acid 90 (0.01 pct).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	.....

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. Replacement chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmenation.	Feed for 2 d before stress and 3 to 6 d after stress; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 11 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	do	2. Replacement chickens; as an aid in the prevention of infectious coryza; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 7 to 14 d; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	Replacement chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation and development of active immunity to coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as erythromycin thiocyanate; and as sole source of organic arsenic; feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct) plus penicillin 2.4 to 50.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As procaine penicillin; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Bacitracin 100 to 500	Replacement chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); development of active immunity to coccidiosis.	As bacitracin zinc; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Chlortetracycline 100 to 200.	Replacement chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); prevention of synovitis; development of active immunity to coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; in Type D articles only; grower Type D article not to be fed to birds 14 of age; feed according to subtable in item (i).	
	Chlortetracycline 200.	Replacement chickens; control of synovitis; development of active immunity to coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Eryghromycin 4.6 to 18.5.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis.	As erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Erythromycin 92.5	1. Replacement chickens; as an aid in the prevention of chronic respiratory disease during periods of stess; development of active immunity to coccidiosis.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Erythromycin 92.5	2. Replacement chickens; as an aid in the prevention of infectious coryza; development of active immunity to coccidiosis.	Feed for 7 to 14 d; withdraw 24 h before slaughter; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Erythromycin 185	Replacement chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; development of active immunity to coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter; in Type D articles only (grower Type D article not to be fed to birds over 14 weeks of age), feed according to subtable in item (i).	
	Hygromycin B 8 to 12.	Replacement chickens; development of active immunity to coccidiosis; control of infestation of large round worms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	In Type D articles only; Type D article ration not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Penicillin 2.4 to 50	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis.	As procaine penicillin; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Penicillin 2.4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As procaine penicillin; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
(ii) 113.5 (0.0125 pct).		Broiler chickens; prevention and control of coccidiosis.		
	Arsanilate sodium 90 (0.01 pct).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 days before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct).	do	do	
	Arsanilic acid 90 (0.01 pct) plus bacitracin 4 to 50.	do	Withdraw 5 d before slaughter, as sole source of organic arsenic, as bacitracin methylene disalicylate.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As erythromycin thiocyanate; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. Broiler chickens; aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation; control of coccidiosis.	do	

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		2. Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation; aid in the prevention of infectious coryza.	do	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	Broiler chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; as erythromycin thiocyanate; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct) plus penicillin 2.4 to 50.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As procaine pencillin; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 4 to 50	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As bacitracin methylene disalicylate, or zinc bacitracin	
	Bacitracin 4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 pct to 0.005 pct).	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As bacitracin methylene disalicylate, or zinc bacitracin; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 100 to 500	Broiler chickens; treatment of chronic respiratory disease (air-sac infection) blue comb (nonspecific infectious enteritis); prevention and control of coccidiosis.	As zinc bacitracin	
	Chlortetracycline 100 to 200.	Broiler chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); prevention of synovitis; prevention and control of coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	
	Chlortetracycline 200.	Broiler chickens; prevention and control of coccidiosis; control of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	
	Erythromycin 4.6 to 18.5.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As erythromycin thiocyanate	
	Erythromycin 92.5	Broiler chickens; aid in the prevention of chronic respiratory disease during period of stress; prevention and control of coccidiosis.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; as erythromycin thiocyanate.	
		2. Broiler chickens; as an aid in the prevention of infectious coryza; prevention and control of coccidiosis.	Feed for 7 to 14 d; withdraw 24 h before slaughter; as erythromycin thiocyanate.	
	Erythromycin 185	Broiler chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; prevention and control of coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter; as erythromycin thiocyanate.	
	Hygromycin B (8 to 12).	Broiler chickens; prevention and control of coccidiosis; control of infestation of large round worms (*Ascaris galli*), cecal worms (*Heterakis gallinae*) and capillary worms (*Capillaria obsignata*).		
	Lincomycin 2	Broiler chickens; increase in rate of weight gain; improved feed efficiency; as an aid in the prevention and control of coccidiosis.	Do not feed to laying chickens; to be fed as the sole ration; as lincomycin hydrochloride monohydrate provided by No. 000009, see sec. 510.600(c) of this chapter; zoalene provided by No. 0.25700, see sec. 510.600(c) of this chapter.	
	Penicillin 2.4 to 50	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As procaine penicillin	
	Penicillin 2.4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 pct to 0.005 pct).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic; as procaine penicillin.	
	Roxarsone 22.7 to 45.4 (0.0025 pct to 0.005 pct).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
(iii) 113.5 to 170.3 (0.0125 to 0.01875 pct).		Turkeys; prevention and control of coccidiosis	For turkeys grown for meat purposes only	
	Arsanilate sodium 90 (0.01 pct).	Turkeys; growth promotion and feed efficiency; improving pigmentation.	For turkeys grown for meat purposes only; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct).	do	do	
	Carbarsone (not U.S.P.) 277 to 340.5 (0.025 to 0.0375 pct).	Turkeys; prevention and control of coccidiosis; aid in the prevention of blackhead.	For turkeys grown for meat purposes only; feed continuously beginning 2 weeks before blackhead and coccidiosis are expected to continue as long as prevention of blackhead and prevention and control of coccidiosis is needed; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Turkeys; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	

(2) *Permitted combinations.* It may be used in accordance with provisions of this section in the combinations provided as follows:

(i) Bambermycins in accordance with § 558.95.

(ii) Roxarsone in accordance with § 558.530.

Interested persons may, on or before march 20, 1978, 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: January 9, 1978.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 78-1030 Filed 1-16-78; 8:45 am]

federal register

TUESDAY, JANUARY 17, 1978
PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Standard Flood Insurance Program

[4210-01]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R-77-497]

PART 1911—INSURANCE COVERAGE AND RATES

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Revision of Parts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: This rule changes certain provisions of the standard flood insurance policy for insurance coverage effective January 1, 1978, and policies issued or received with effective dates on or after January 1, 1978. Prior to that date, policies were issued by the Department of Housing and Urban Development and member companies of the National Flood Insurers Association. The effect of the amendments is to give insureds direct access to the Federal Insurance Administration which was delegated authority to operate the national flood insurance program within the Department in order to provide more efficient policy administration.

DATES: The effective date of this rule is January 1, 1978. Comment due date: February 15, 1978.

ADDRESS: Send comments to Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll free line 800-424-8872, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Under the authority contained in the National Flood Insurance Act of 1968, ("the Act") as amended (42 U.S.C. 4001 et seq.), the Federal Insurance Administration is amending parts of 1911 and 1912 of Title 24 of the Code of Federal Regulations, effective with all standard flood insurance policies issued, renewed, or in force, on and after January 1, 1978, and for succeeding policy years. Standard flood insurance policies issued and renewed on and after January 1, 1978, are insured solely by the Department of Housing and Urban Development pursuant to the Act whereas prior to that date policies were issued by the Department and member companies of the National Flood Insurers Association, located at Suite 1102, 1755 Jefferson Davis Highway, Arlington, Va. 22202.

The amendments to the policy and revised procedures are issued subject to the Act, as amended. The effect of the amendments is to give insureds direct access to the Federal Insurance Administration, which was delegated authority to operate the national flood insurance program within the Department of Housing and Urban Development, in order to provide more efficient policy administration. Questions concerning the revised coverage and procedures should be directed to FIA at the above address.

The amendments are considered beneficial to the insureds or potential insureds since eligibility for coverage is determined solely by reason by proper payment and receipt of premium by FIA and that the insured at the time of application is located in a community participating in the national flood insurance program.

The above amendment is not considered to be substantive and will not adversely effect the policyholder; rather, it is considered to be of benefit to all policyholders.

Any policy or claim authorized by the Act as previously implemented in its agreement dated June 6, 1969, as amended, with the National Flood Insurers Association will be considered to have been issued in accordance with this revision of Parts 1911 and 1912 until the expiration of its normal term. Any policyholder who desires immediate substitution of his present policy may request a copy of the revised policy by sending a notarized copy of his previous policy and premium payment together with name and address to:

EDS Federal Corporation, 6410 Rockledge Drive, Bethesda, Md. 20014, Attn.: Request for new policy, 800-638-6620.

For clarity and convenience, Parts 1911 and 1912 are revised in their entirety.

It has been determined that these amendments do not have a substantial impact upon the quality of the environment. A finding to that effect is included in the formal docket file in the Office of the Rules Docket Clerk and is available for public inspection and copying.

The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act. The Federal Insurance Administration has determined that this document does not contain a major proposal requiring preparations of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

The changes to the standard flood insurance policy set forth in this amendment apply under the terms of HUD's agreement with its fiscal agent for the flood insurance program to all such policies issued or renewed after December 31, 1977. For this reason, the amended provisions of Parts 1911 and 1912 and the sample policy appended thereto must be published in time to permit their adoption for insurance coverage as of January 1, 1978. Therefore, it is impracticable to provide for comment and public procedure before the effective date. Moreover, inasmuch as these provisions benefit policy holders generally and relax existing restrictions, good cause exists for making this amendment effective upon publication. However, interested persons are invited to submit comments with respect to these amendments and all such comments will be considered before a final rule is adopted in this proceeding. Comments should be addressed to the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410. All comments should be received by the Rules Docket Clerk on or before February 15, 1978. Copies of all comments received will be available for inspection and copying at the above address.

Accordingly, 24 CFR Parts 1911 and 1912 are amended as set forth below effective January 1, 1978, until amended or superseded. Regulations previously in effect do not remain in effect but are considered to be superseded by this amendment effective January 1, 1978.

PART 1911—INSURANCE COVERAGE AND RATES

Sec.

1911.1 Purpose of part.
1911.2 Definitions.
1911.3 Types of coverage.
1911.4 Limitations on coverage.
1911.5 Special terms and conditions.
1911.6 Maximum amounts of coverage available.
1911.7 Risk premium rate determinations.
1911.8 Applicability of risk premium rates.
1911.9 Establishment of chargeable rates.
1911.10 Minimum premiums.
1911.11 Adding coverage while policy is in force.
1911.12 Rates based on a flood protection system involving Federal funds.
1911.13 Standard flood insurance policy.
1911.14 Standard flood insurance policy interpretations.
1911.15 Assumption of liabilities under all outstanding flood insurance policies issued by the National Flood Insurers Association.

AUTHORITY: Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 1306, 82 Stat. 575 (42 U.S.C. 4013).

§ 1911.1 Purpose of part.

This part describes the types of properties eligible for flood insurance

coverage under the program, the limits of such coverage, and the premium rates actually to be paid by insureds. The specific communities eligible for coverage are designated by the Administrator from time to time as applications are approved under the emergency program and as ratemaking studies of communities are completed prior to the regular program. Lists of such communities are periodically published under Part 1914 of this subchapter.

§ 1911.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this part.

§ 1911.3 Types of coverage.

Insurance coverage under the program is available for structures and their contents. Coverage for each may be purchased separately. One policy to provide insurance for more than one structure is not available under the program.

§ 1911.4 Limitations on coverage.

(a) All flood insurance made available under the program is subject:

(1) To the Act, the amendments thereto, and the regulations issued under the Act;

(2) To the terms and conditions of the standard flood insurance policy, which shall be promulgated by the Administrator for substance and form and which is subject to interpretation by the Administrator as to scope of coverage pursuant to the applicable statutes and regulations;

(3) To the specified limits of coverage set forth in the application and declarations page of the policy; and

(4) To the maximum limits of coverage set forth in § 1911.6.

(b) Insurance under the program is available only for loss due to flood, as defined in § 1909.1 of this subchapter. The policy also covers damage from a general condition of flooding in the area which results from other than natural causes, such as the breaking of a dam, but does not cover damage which results from causes on the insured's own property or within his control or from any condition which causes damage, which condition is substantially confined to the insured's premises or properties immediately adjacent thereto.

(c) The policy does not cover losses from rain, snow, sleet, hail, or water spray that do not result in a general condition of flooding. It covers losses from freezing or thawing, or from the pressure of weight of ice and water, only where they occur simultaneously with and as a part of flood damage. It covers losses from mudslide (i.e., mudflow) but does not cover damage from landslides or from earthquakes or similar earth movements which are volcanic or tectonic in origin. The policy does not cover erosion which is not flood-related, claims resulting from occurrences already in progress at the time of the inception date of the term of the policy, or losses caused by land slippage rather than mudslide (see definition of mudslide/mudflow in § 1909.1 of this subchapter). Damage by seepage and sewer backup may be covered only when directly resulting from a flooding situation. Abnormal erosion cause by high water levels accompanied by violent wave action along a lake or other body of water is considered a flood (see definition of flood-related erosion in § 1909.1 of this subchapter). However, there is no coverage where normal, continuous wave action, accompanied by erosion or the gradual and anticipated wearing away of the land is the proximate cause of property damage.

(d) The policy protects against loss to contents only at the location described in the application, except that contents necessarily removed from the premises for preservation from a flood are protected against loss or damage from flood at the new location, if placed in a fully enclosed building, pro rata for a period of 45 days.

§ 1911.5 Special terms and conditions.

(a) No new flood insurance or renewal of flood insurance policies shall be written for properties declared by a duly constituted State or local zoning or other authority to be in violation of any flood plain, mudslide (i.e. mudflow), or flood-related erosion area management or control law, regulation, or ordinance.

(b) In order to reduce the administrative costs of the program of which the Federal Government pays a major share, payment of the full policyholder premium must be made at the time of application.

(c) Because of the seasonal nature of flooding, refunds of premiums upon cancellation of coverage by the insured are permitted only if the insurer ceases to have an ownership interest in the covered property at the location described in the policy. Refunds of premiums for any other reason are subject to the conditions set forth in § 1912.5 of this subchapter.

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of the deductible for each loss occurrence is: (1) For structural losses, $200, and (2) for contents losses, $200.

(e) Payment for a loss under the policy does not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate flood occurrence, but all losses arising out of a continuous or protracted occurrence are deemed to have arisen out of a single occurrence.

(f) The following property and contents for residential structures are not insurable under the program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts, or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks, other structures located on or partially over water, or personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways, and other paved or poured surfaces outside the foundation walls of the structure;

(4) Animals, birds, fish, aircraft, motor vehicles including parts and equipment (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment, or business property.

(g) The following property and contents for nonresidential structures are not insurable under the program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks, other open structures located on or partially over water, personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock, underground structures or underground equipment, and those portions of walks, driveways, and other paved or poured surfaces outside the foundation walls of the structures;

(4) Automobiles including parts and equipment, any self-propelled vehicle or machine, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the insured, watercraft or aircraft.

(h) The policy on an eligible property may be canceled by the insurer only for nonpayment of premium. However, any willful misrepresentation or concealment of any material fact by the insured at any time voids the entire policy as of the date the wrongful act was committed, but does not affect coverage prior to the date of the wrongful act.

(i) The standard flood insurance policy is authorized only under terms and conditions established by Federal statute, the program's regulations, the Administrator's interpretations and the express terms of the policy itself. Accordingly, representations regarding the extent and scope of coverage which are not consistent with the National Flood Insurance Act of 1968, as amended, or the program's regulations, are void, and the duly licensed property or casualty agent acts for the

insured and does not act as agent for the Federal Government, the Department of Housing and Urban Development, or the servicing agent.

§ 1911.6 Maximum amounts of coverage available.

(a) Pursuant to section 1306 of the Act, the following are the limits of coverage available under the emergency program and under the regular program.

	Emergency program		Regular program
	First layer	Second layer	Total amount available
Single family residential:			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands:	35,000	150,000	185,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	50,000	[1] 150,000	185,000
Other residential:			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands	100,000	150,000	250,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	150,000	[2] 150,000	250,000
Small business	100,000	150,000	250,000
Churches and other properties	100,000	100,000	200,000
Contents:			
Residential	10,000	50,000	60,000
Small business	100,000	200,000	300,000
Churches, other properties (per unit)	100,000	100,000	200,000

[1] NOTE.—Add to 35,000.
[2] NOTE.—Add to 100,000.

(b) The maximum limits of coverage required under the Act are twice the amounts available under First Layer Coverage.

§ 1911.7 Risk premium rate determinations.

(a) Pursuant to section 1307 of the Act, the Administrator is authorized to undertake studies and investigations to enable him to estimate the risk premium rates necessary to provide flood insurance in accordance with accepted actuarial principles, including applicable operating costs and allowances. Such rates are also referred to in this subchapter as "actuarial rates."

(b) The Administrator is also authorized to prescribe by regulation the rates which can reasonably be charged to insureds in order to encourage them to purchase the flood insurance made available under the program. Such rates are referred to in this subchapter as "chargeable rates." For areas having special flood, mudslide (i.e., mudflow), and flood-related erosion hazards, chargeable rates are usually lower than actuarial rates.

§ 1911.8 Applicability of risk premium rates.

Risk premium rates are applicable to all flood insurance made available for:

(a) Any structure, the construction or substantial improvement of which was started after December 31, 1974, or on or after the effective date of the initial FIRM, whichever is later.

(b) Coverage which exceeds the following limits:

(1) For dwelling properties in States other than Alaska, Hawaii, the Virgin Islands, and Guam: (i) $35,000 aggregate liability for any property containing only one unit, (ii) $100,000 for any property containing more than one unit, and (iii) $10,000 liability per unit for any contents related to such unit.

(2) For dwelling properties in Alaska, Hawaii, the Virgin Islands, and Guam: (i) $50,000 aggregate liability for any property containing only one unit, (ii) $150,000 for property containing more than one unit, and (iii) $10,000 aggregate liability per unit for any contents related to such unit.

(3) For churches and other properties: (i) $100,000 for the structure and (ii) $100,000 for contents of any such unit.

(c) Any structure or the contents thereof for which the chargeable rates prescribed by this Part would exceed the risk premium rates.

§ 1911.9 Establishment of chargeable rates.

(a) Pursuant to Section 1308 of the Act, chargeable rates per year per $100 of flood insurance are established as follows for all areas designated by the Administrator under Part 1914 of this subchapter for the offering of flood insurance:

RATES FOR NEW AND RENEWAL POLICIES

Type of structure	Rate per year per $100 coverage on structure	Rate per year per $100 coverage on contents
(1) Residential	$0.25	$0.35
(2) All other (including hotels and hotels and motels with normal occupancy of less than 6 months in duration)..	.40	.75

(b) The contents rate shall be based upon the use of the individual premises for which contents coverage is purchased.

§ 1911.10 Minimum premiums.

The minimum premium required for any policy, regardless of the amount of coverage, is $25. The minimum premium required for any added coverage or increase in the amount of coverage during the term of an existing policy is $4, regardless of the unexpired term of the policy at the time of the change.

§ 1911.11 Adding coverage while policy is in force.

(a) Adding new coverage or increasing the amount of coverage in force is permitted during any policy term.

(b) The additional premium for additional coverage or an increase in the amount of coverage shall be calculated pro rata in accordance with the rates currently in force, with a minimum premium of $4.

(c) The effective date and time of any new or added coverage, or of any increases in the amount of coverage, shall be 12:01 a.m. (standard time) of the 16th calendar day after the date of the application: *Provided*, That this waiting period is waived during the 30-day period following both the date of initial community eligibility in the emergency and regular programs, or during the 30 days after increased limits of coverage are made available by amendment of the Act.

§ 1911.12 Rates based on a flood protection system involving Federal funds.

(a) Where the Administrator determines that a community has made adequate progress on the construction of a flood protection system involving Federal funds which will significantly limit the area of special flood hazards, the applicable risk premium rates for any property, located within a special flood hazard area intended to be protected directly by such system will be those risk premium rates which would be applicable when the system is complete.

(b) Adequate progress in paragraph (a) of this section means that the community has provided information to the Administrator sufficient to determine that substantial completion of the flood protection system has been effected because:

(1) 100 percent of the total financial project cost of the completed flood protection system has been authorized;

(2) At least 60 percent of the total financial project cost of the completed flood protection system has been appropriated;

(3) At least 50 percent of the total financial project cost of the completed flood protection system has been expended;

(4) The flood protection system's physical features are under construction and 50 percent completed as measured by the actual expenditure of the estimated construction budget funds; and

(5) The community has not been responsible for any delay in the completion of the system.

(c) Each request by a community for a determination must be submitted in writing to the Office of Flood Insurance, Federal Insurance Administration, Department of Housing and Urban Development, 451 7th St. SW., Washington, D.C. 20410, and contain a complete statement of all relevant facts relating to the flood protection system, including, but not limited to, supporting technical data (e.g., U.S. Army Corps of Engineers flood protection project data), cost schedules, budget appropriation data and the extent of Federal funding of the system's construction. Such facts shall include information sufficient to identify all persons affected by such flood protection system or by such request: a full and precise statement of intended purposes of the flood protection system; and a carefully detailed description of such project, including construction completion target dates. In addition, true copies of all contracts, agreements, leases, instruments, and other documents involved must be submitted with the request. Relevant facts reflected in documents, however, must be included in the statement and not merely incorporated by reference, and must be accompanied by an analysis of their bearing on the requirements of paragraph (b) of this section, specifying the pertinent provisions. The request must contain a statement whether, to the best of the knowledge of the person responsible for preparing the application for the community, the flood protection system is currently the subject matter of litigation before any Federal, State, or local court or administrative agency, and the purpose of that litigation. The request must also contain a statement as to whether the community has previously requested a determination with respect to the same subject matter from the Administrator, detailing the disposition of such previous request. As documents become part of the file and cannot be returned, the original documents should not be submitted.

(d) The effective date for any risk premium rates established under this section shall be the date of final determination by the Administrator that adequate progress toward completion of a flood protection system has been made in a community.

(e) A responsible official of a community which received a determination that adequate progress has been made towards completion of a flood protection system shall certify to the Administrator annually on the anniversary date of receipt of such determination that no present delay in completion of the system is attributable to local sponsors of the system, and that a good faith effort is being made to complete the project.

(f) A community for which risk premium rates have been made available under section 1307(e) of the National Flood Insurance Act of 1968, as amended, shall notify the Administrator if, at any time, all progress on the completion of the flood protection system has been halted or if the project for the completion of the flood protection system has been canceled.

§ 1911.13 Standard Flood Insurance Policy.

(a) *Incorporation of forms.* Each of the Standard Flood Insurance Policy forms included in Appendix "A" hereto ("General Property" and "Dwelling Building and Contents") and by reference incorporated herein shall be incorporated into the Standard Flood Insurance Policy.

(b) *Endorsements.* All endorsements to the Standard Flood Insurance Policy shall be final upon publication in the FEDERAL REGISTER for inclusion in Appendix A.

(c) *Applications.* The application and renewal application forms included in Appendix B shall be the only application forms used in connection with the Standard Flood Insurance Policy.

(d) *Waivers.* The Standard Flood Insurance Policy and required endorsements must be used in the Flood Insurance Program, and no provision of the said documents shall be altered, varied, or waived other than through the issuance of an appropriate amendatory endorsement, approved by the Administrator as to form and substance for uniform use.

(e) *Oral and written binders.* No oral binder or contract shall be effective. No written binder shall be effective unless issued with express authorization of the Administrator.

§ 1911.14 Standard Flood Insurance Policy Interpretations.

(a) *Definition.* A Standard Flood Insurance Policy Interpretation is a written determination by the Administrator construing the scope of the flood insurance coverage that has been and is provided under the policy.

(b) *Publication and requests for interpretation.* The Administrator shall, pursuant to these regulations from time to time, issue interpretative rulings regarding the provisions of the Standard Flood Insurance Policy. Such Interpretations shall be published in the FEDERAL REGISTER, made a part of Appendix C to these regulations, and incorporated by reference as part of these regulations. Any policyholder or person in privity with a policyholder may file a request for an interpretation in writing with the Federal Insurance Administration, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

§ 1911.15 Assumption of Liabilities under all Outstanding Flood Insurance Policies issued by the National Flood Insurers Association.

On January 1, 1978, all Standard Flood Insurance Policies issued by the National Flood Insurers Association prior to January 1, 1978, which have their annual policy period extending into the calendar year 1978, shall be considered to be Standard Flood Insurance Policies issued by the Federal Insurance Administration, U.S. Department of Housing and Urban Development.

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Subpart A—Issuance of Policies

Sec.
1912.1 Purpose of Part.
1912.2 Definitions.
1912.3 Servicing Agent.
1912.4 Limitations on sale of policies.
1912.5 Premium refund.
1912.6 Minimum commissions.
1912.7 Notice to Policyholders.

Subpart B—Claims Adjustment and Judicial Review

1912.21 Claims adjustment.
1912.22 Judicial review.

AUTHORITY: Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); sec. 1306, 82 Stat. 575; (42 U.S.C. 4013).

Subpart A—Issuance of Policies

§ 1912.1 Purpose of part.

The purpose of this part is to set forth the manner in which flood insurance under the Program is made available to the general public in those communities designated as eligible for the sale of insurance under Part 1914 of this subchapter, and to prescribe the general method by which the Administrator exercises his responsibility regarding the manner in which claims for losses are paid.

§ 1912.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this part.

§ 1912.3 Servicing Agent.

(a) Pursuant to Sections 1345 and 1346 of the Act, the Administrator has entered into an Agreement with a servicing agent to authorize it to assist in issuing flood insurance policies under the Program in communities designated by the Administrator and to accept responsibility for the delivery of policies and payment of claims for losses as prescribed by and at the discretion of the Administrator.

(b) The following company has been contracted to act as a servicing agent for the Federal Insurance Administration:

EDS Federal Corp., 6410 Rockledge Drive, Bethesda, Md. 20014.

(c) The servicing agent will arrange for the issuance of flood insurance to any person qualifying for such coverage under Parts 1911 and 1914 of this subchapter who submits an application to the servicing agent in accordance with the terms and conditions of the contract between the Department and the servicing agent.

(d) Applications and premiums should be mailed to:

National Flood Insurance Program, Federal Insurance Administration, U.S. Department of Housing and Urban Development, P.O. Box 2448, Arlington, Va. 22202

§ 1912.4 Limitations on sale of policies.

(a) The servicing agent shall be deemed to have agreed, as a condition of its contract that it shall not offer flood insurance under any authority or auspices in any amount within the maximum limits of coverage specified in § 1911.6 of this subchapter, in any area the Administrator designates in Part 1914 of this subchapter as eligible for the sale of flood insurance under the Program, other than in accordance with this part, the Agreement, and the Standard Flood Insurance Policy.

(b) The agreement and all activities thereunder are subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and to the applicable Federal regulations and requirements issued from time to time pursuant thereto. No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the Program, on the ground of race, color, creed or national origin. Any complaint or information concerning the existence of any such unlawful discrimination in any matter within the purview of this part should be referred to the Administrator.

§ 1912.5 Premium refund.

A Standard Flood Insurance Policyholder whose property has been determined not to be in a special hazard area after the map revision or a Letter of Map Amendment under Part 1920 of this subchapter may cancel the policy within the current policy year provided (a) he was required to purchase or to maintain flood insurance coverage, or both, as a condition for financial assistance, and (b) his property was located in an identified special hazard area as represented on an effective FHBM or FIRM when the financial assistance was provided. If no claim under the policy has been paid or is pending, the full premium shall be refunded for the current policy year, and for an additional policy year where the insured had been required to renew the policy while his request for refund was pending during the period when a revised map was being reprinted.

§ 1912.6 Minimum commissions.

The earned commission which shall be paid to any property or casualty insurance agent licensed in the State in which the insured property is located with respect to each policy or renewal he duly procures for an eligible purchaser shall not be less than $10. Any refunds of premiums authorized under this subchapter shall not affect a previously earned commission, and no agent shall be required to return that earned commission.

§ 1912.7 Notice to Policyholders.

Pursuant to the National Flood Insurance Program (42 U.S.C. Sections 4001-4128) the servicing agent shall provide a notice in all flood insurance policies issued and renewed containing the following information:

(a) The policy indicated on the reverse side will expire 12 p.m. on the day prior to the renewal date shown. Your policy, when renewed, will be issued by the Federal government, as insurer, rather than by the National Flood Insurers Association, whose contractual relationship with the Department of Housing and Urban Development terminated on December 31, 1977.

(b) To avoid a lapse in coverage your renewal premium for the next annual term must be received prior to the expiration of the current policy term. If you elect the increased amount of insurance shown in B, your renewal premium must be received 15 days prior to the current term expiration date in order for the increased amounts of insurance to take effect on the renewal effective date shown.

(c) If this policy is allowed to expire, the mortgagee of the insured property, if any, will be provided written notice as is provided for under the policy conditions.

(d) If you have any questions, contact your local agent. If you are unable to contact the agent, refer questions to the nearest National Flood Insurance Servicing Center.

Subpart B—Claims Adjustment and Judicial Review

§ 1912.21 Claims adjustment.

(a) In accordance with the Agreement, the servicing agent shall arrange for the prompt adjustment and settlement and payment of all claims arising from policies of insurance issued under the program. Investigation of such claims may be made through the facilities of its subcontractors or insurance adjustment organizations, to the extent required and appropriate for the expeditious processing of such claims.

(b) All adjustment of losses and settlements of claims shall be made in accordance with the terms and conditions of the policy and Parts 1911 and 1912 of this subchapter.

§ 1912.22 Judicial Review.

(a) Upon the disallowance by the Federal Insurance Administration on the servicing agent of any claim on grounds other than failure to file a proof of loss, or upon the refusal of the claimant to accept the amount allowed upon any such claim, after appraisal pursuant to policy provisions, the claimant within one year after the date of mailing by the Federal Insurance Administration or the servicing agent of the notice of disallowance or partial disallowance of the claim may, pursuant to 42 U.S.C. 4053, institute an action on such claim against the Secretary of Housing and Urban Development in the U.S. District Court for the district in which the insured property or the major portion thereof shall have been situated, without regard to the amount in controversy.

(b) Service of process for all judicial proceedings where a claimant is suing Secretary pursuant to 42 U.S.C. 4071 shall be made upon the appropriate United States Attorney, the Attorney General of the United States, and the Secretary of HUD.

(National Flood Insurance Act of 1968 (title XIII of the 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: January 1, 1978.

JAY JANIS,
Acting Secretary, Housing and Urban Development.

Appendix A (1)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION

STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

DWELLING FORM

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE INSURER DOES INSURE the Insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all **DIRECT LOSS BY "FLOOD"** as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy by the Insured is allowed. The Insurer under this Policy is the Department of Housing and Urban Development.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean:

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslide (i.e., mudflow), a river or flow of liquid mud proximately caused by flooding as defined in subparagraph A-2 above or by the accumulation of water under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the anticipated cyclical levels.

PERILS EXCLUDED

The insurer shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray, (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; (3) water, moisture or mudslide (i.e., mudflow) damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures, or equipment) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto; or (4) seepage, backup of water, or hydrostatic pressure not related to a condition of "flood" as defined;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy; but, for contents covered herein and subject to the terms of the policy including the limits of liability, the Insurer will reimburse the Insured for reasonable expenses necessarily incurred by him in complying with the requirements of this paragraph, including but not limited to, reasonable expenses for removal or temporary storage (not exceeding 45 days), or both, of insured contents, from the described premises because of the imminent danger of flood.

PROPERTY COVERED

A. Dwelling: The term "dwelling" shall mean a residential building designed for the occupancy of from 1 to 4 families and occupied principally for dwelling purposes by the number of families stated herein.

When the insurance under this policy covers a dwelling, such insurance shall include additions in contact therewith; also, if the property of the owner of the described dwelling and when not otherwise covered, building equipment, fixtures and outdoor equipment, all pertaining to the service of the described premises and while within an enclosed structure located on the described premises; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such dwelling or appurtenant private structures on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the dwelling covered under this policy, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described dwelling and additions in contact therewith) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described dwelling, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a dwelling—except other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy, belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured; all while within an enclosed structure located on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the contents covered under this policy, not as an additional amount of insurance, as follows:

(a) If not owner of the described premises, to cover loss to improvements, alterations, and additions to the described dwelling appurtenant enclosed private structures as described above.

(b) If an individual condominium unit owner of the described premises, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described dwelling and appurtenant enclosed private structures as described above.

ATTACH APPLICATION AND DECLARATIONS FORM HERE

The Insurer shall not be liable for loss in any one occurrence for more than:

1. $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);
2. $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the dwelling, appurtenant enclosed private structures or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks, other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure.

D. Animals, birds, fish; aircraft and motor vehicles (other than motorized equipment pertaining to the services of the premises and not licensed for highway use) including their parts and equipment; trailers on wheels; watercraft including their furnishings and equipment; and business property.

DEDUCTIBLES

A. With respect to loss to the dwelling, appurtenant private structures, and debris removal covered hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00.

B. With respect to loss to contents or debris removal covered hereunder, or to expenses, incurred under paragraph F of "Perils Excluded," the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00.

REPLACEMENT COST PROVISIONS

These provisions shall apply only to a Single Family Dwelling covered hereunder. Outdoor radio and television antennas and aerials, carpeting, awnings, domestic appliances and outdoor equipment, all whether attached to the building structure or not, are excluded from the replacement cost coverage.

A. If at the time of loss the total amount of insurance applicable to said dwelling is 80% or more of the full replacement cost of such dwelling, or is the maximum amount of insurance available under the National Flood Insurance Program, the coverage of this policy applicable to such dwelling is extended to include the full cost of repair or replacement (without deduction for depreciation).

B. If at the time of loss the total amount of insurance applicable to said dwelling is less than 80% of the full replacement cost of such dwelling and less than the maximum amount of insurance available under the National Flood Insurance Program, the Insurer's liability for loss under this policy shall not exceed the larger of the following amounts:

1. the actual cash value (meaning replacement cost less depreciation) of that part of the dwelling damaged or destroyed; or
2. That portion of the full cost of repair or replacement without deduction for depreciation of that part of the dwelling damaged or destroyed, which the total amount of insurance applicable to said dwelling bears to 80% of the full replacement cost of such dwelling.

   If 80% of the full replacement cost of such dwelling is greater than the maximum amount of insurance available under the National Flood Insurance Program, use the maximum amount in lieu of the 80% figure in the application of this limit.

C. The Insurer's liability for loss under this policy shall not exceed the smallest of the following amounts:

1. The limit of liability of this policy applicable to the damaged or destroyed building.
2. The replacement cost of the dwelling or any part thereof identical with such dwelling on the same premises and intended for the same occupancy and use; or
3. The amount actually and necessarily expended in repairing or replacing said dwelling or any part thereof intended for the same occupancy and use.

D. When the full cost of repair or replacement is more than $1,000 or more than 5% of the whole amount of insurance applicable to said dwelling, the Insurer shall not be liable for any loss under paragraph A or subparagraph B-2 of these provisions unless and until actual repair or replacement is completed.

E. In determining if the whole amount of insurance applicable to said dwelling is 80% or more of the full replacement cost of such dwelling, the cost of excavations, underground flues and pipes, underground wiring and drains, and brick, stone and concrete foundations, piers and other supports which are below the under surface of the lowest basement floor, or where there is no basement, which are below the surface of the ground inside the foundation walls, shall be disregarded.

F. The Named Insured may elect to disregard this condition in making claim hereunder, but such election shall not prejudice the Named Insured's right to make further claim within 180 days after loss for any additional liability brought about by these provisions.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—The Insurer shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by the Insurer upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by the Insurer in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of the Insurer relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case the Insurer shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case the Insurer shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by the Insurer for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, the Insurer shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the Insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

H. Property of Others—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to the Insurer. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of the Insurer there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the state wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

L. Mortgage Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy)—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify the Insurer of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by the Insurer, it shall continue in force for the benefit only of the mortgagee (or trustee) for 30 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and the Insurer shall have the right, on like notice, to cancel this agreement.

Whenever the Insurer shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, the Insurer shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Requirements in Case of Loss—The Insured shall give written notice, as soon as practicable, to the Insurer of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by the Insurer, the Insured shall render to the Insurer, a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of the Insurer, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by the Insurer all that remains of any property herein described, and submit to examinations under oath by any person named by the Insurer, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Insurer or its representative, and shall permit extracts and copies thereof to be made.

O. Appraisal—In case the Insured and the Insurer shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or the Insurer, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with the Insurer shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

P. Options—It shall be optional with the Insurer to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

Q. Abandonment—There shall be no abandonment to the Insurer of any property.

R. When Loss Payable—The amount of loss for which the Insurer may be liable shall be payable 60 days after proof of loss, as herein provided, is received by the Insurer and ascertainment of the loss is made either by agreement between the Insured and the Insurer expressed in writing or by the filing with the Insurer of an award as herein provided.

S. Action Against the Insurer—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Insurer may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

T. Subrogation—In the event of any payment under this policy, the Insurer shall be subrogated to all the Insured's right of recovery therefor against any party, and the Insurer may require from the Insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the Insurer. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, the Insurer has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of the Insurer.

Patricia Roberts Harris

Patricia Roberts Harris
Secretary

☆ U. S. GOVERNMENT PRINTING OFFICE : 1977 O - 247-009

HUD 1618 (9-77)

Appendix A (2)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION

STANDARD FLOOD INSURANCE POLICY

[Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof]

GENERAL PROPERTY FORM

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE INSURER DOES INSURE the Insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all **DIRECT LOSS BY "FLOOD"** as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy by the Insured is allowed. The Insurer under this Policy is the Department of Housing and Urban Development.

DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean:

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslide (i.e., mudflow), a river or flow of liquid mud proximately caused by flooding as defined in subparagraph A-2 above or by the accumulation of water under the ground.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the anticipated cyclical levels.

PERILS EXCLUDED

The Insurer shall not be liable for loss:

A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; (3) water, moisture or mudslide (i.e., mudflow) damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures, or equipment) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto; or (4) seepage, backup of water, or hydrostatic pressure not related to a condition of "flood" as defined;

B. Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (b) by military, naval or air forces, or (c) by an agent of any such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;

C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy;

D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood;

E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against;

F. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy; but, for contents covered herein and subject to the terms of the policy including the limits of liability, the Insurer will reimburse the Insured for reasonable expenses necessarily incurred by him in complying with the requirements of this paragraph, including but not limited to, reasonable expenses for removal or temporary storage (not exceeding 45 days), or both, of insured contents, from the described premises because of the imminent danger of flood.

PROPERTY COVERED

A. Building: When the insurance under this policy covers a building, such insurance shall include additions and extensions attached thereto; permanent fixtures, machinery and equipment forming a part of and pertaining to the service of the building; personal property of the insured as landlord used for the maintenance or service of the building including fire extinguishing apparatus, floor coverings, refrigerating and ventilating equipment, all while within the described building; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such building or appurtenant private structures on the described premises.

When the insurance under this policy covers a building used for residential purposes, the insured may apply up to 10% of the amount of insurance, applicable to such building, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described building and additions and extensions attached thereto) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described building, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, coverage shall be for either household contents or other than household contents, but not for both.

1. When the insurance under this policy covers other than household contents, such insurance shall cover merchandise and stock, materials and stock supplies of every description; furniture, fixtures, machinery and equipment of every description all owned by the insured; improvements and betterments (as hereinafter defined) to the building if the insured is not the owner of the building and when not otherwise covered; all while within the described enclosed building.
2. When the insurance under this policy covers household contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a residence—except animals, birds, fish, business property, other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by the other insurance including the peril insured against in this policy; belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured; all while within the described building.

The Insured, if not the owner of the described building, may apply up to 10% of the amount of insurance applicable to the household contents covered under this item, not as an additional amount of insurance, to cover loss to improvements and betterments (as hereinafter defined) to the described building.

The Insured, if an individual condominium unit owner in the described building, may apply up to 10% of the amount of insurance on contents covered under this policy, not as an additional amount of insurance, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described building.

ATTACH APPLICATION AND DECLARATIONS FORM HERE

The insurer shall not be liable for loss in any one occurrence for more than:

(a) $500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac);

(b) $500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

3. When the insurance under this policy covers improvements and betterments, such insurance shall cover the Insured's used interest in improvements and betterments to the described building.

(a) The term "improvements and betterments" wherever used in this policy is defined as fixtures, alterations, installations, or additions comprising a part of the described building and made, or acquired, at the expense of the Insured exclusive of rent paid by the Insured, but which are not legally subject to removal by the Insured.

(b) The word "lease" wherever used in this policy shall mean the lease or rental agreement, whether written or oral, in effect as of the time of loss.

(c) In the event improvements and betterments are damaged or destroyed during the term of this policy by the peril insured against, the liability of the Insurer shall be determined as follows:

(1) If repaired or replaced at the expense of the Insured within a reasonable time after such loss, the actual cash value of the damaged or destroyed improvements and betterments.

(2) If not repaired or replaced within a reasonable time after such loss, that proportion of the original cost at time of installation of the damaged or destroyed improvements and betterments which the unexpired term of the lease at the time of loss bears to the period(s) from the date(s) such improvements and betterments were made to the expiration date of the lease.

(3) If repaired or replaced at the expense of others for the use of the Insured, there shall be no liability hereunder.

C. Debris Removal: This insurance covers expense incurred in the removal of debris of or on the building or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

PROPERTY NOT COVERED

This policy shall not cover:

A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water; or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure.

D. Automobiles; any self-propelled vehicles or machines, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the Insured; watercraft or aircraft.

E. Contents specifically covered by other insurance except for the excess of value of such property above the amount of such insurance.

DEDUCTIBLES

A. With respect to loss to the building, appurtenant private structures, and debris removal covered hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00

B. With respect to loss to contents or debris removal covered hereunder, or to expenses, incurred under paragraph F of "Perils Excluded," the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00.

GENERAL CONDITIONS AND PROVISIONS

A. Pair and Set Clause—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. Concealment, Fraud—This entire policy shall be void if, whether before or after a loss, the Insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.

C. Other Insurance—The Insurer shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by the Insurer upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under said Act with respect to such property.

D. Added and Waiver Provisions—The extent of the application of insurance under this policy and of the contribution to be made by the Insurer in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of the Insurer relating to appraisal or to any examination provided for herein.

E. Cancellation of Policy or Reduction in Amount of Insurance—This policy may be cancelled at any time at the request of the Insured, in which case the Insurer shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time; provided, however, that the premium paid for the then current policy term shall be fully earned if the Insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the Insured, in which case the Insurer shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction; provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the Insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by the Insurer for non-payment of the premium by giving to the Insured a 20-days' written notice of cancellation.

F. Conditions Suspending or Restricting Insurance—Unless otherwise provided in writing added hereto, the Insurer shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the insured), when such act or neglect is not within the control of the Insured.

G. Alterations and Repairs—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the Insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the Insured shall protect the property from further damage.

H. Property of Others (Servants and Guests Only)—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the Insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to the Insurer. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

I. Liberalization Clause—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of the Insurer there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the Insured hereunder as though such endorsement or substitution of form had been made.

J. Statutory Provisions—Any terms of this policy which are in conflict with the statutes of the state wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

K. Loss Clause—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

L. Mortgage Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy)—

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify the Insurer of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

If this policy is cancelled by the Insurer, it shall continue in force for the benefit only of the mortgagee (or trustee) for 30 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and the Insurer shall have the right, on like notice, to cancel this agreement.

Whenever the Insurer shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, the Insurer shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

M. Mortgagee Obligations—If the insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

N. Loss Payable Clause (Applicable to contents items only.)—Loss, if any, shall be adjusted with the Insured and shall be payable to the Insured and loss payee as their interests may appear.

O. Requirements in Case of Loss—The Insured shall give written notice, as soon as practicable, to the Insurer of any loss; protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by the Insurer, the Insured shall render to the Insurer, a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of the Insurer, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by the Insurer all that remains of any property herein described, and submit to examinations under oath by any person named by the Insurer, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Insurer or its representative, and shall permit extracts and copies thereof to be made.

P. Appraisal—In case the Insured and the Insurer shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the Insured or the Insurer, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with the Insurer shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Q. Options—It shall be optional with the Insurer to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

R. Abandonment—There shall be no abandonment to the Insurer of any property.

S. When Loss Payable—The amount of loss for which the Insurer may be liable shall be payable 60 days after proof of loss, as herein provided, is received by the Insurer and ascertainment of the loss is made either by agreement between the Insured and the Insurer expressed in writing or by the filing with the Insurer of an award as herein provided.

T. Action Against the Insurer—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Insurer may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

U. Subrogation—In the event of any payment under this policy, the Insurer shall be subrogated to all the Insured's right of recovery therefor against any party, and the Insurer may require from the Insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the Insurer. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, the Insurer has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of the Insurer.

Patricia Roberts Harris

Patricia Roberts Harris
Secretary

☆ U. S. GOVERNMENT PRINTING OFFICE : 1977 O - 247-008

HUD 1617 (9-77)

Appendix B (1)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
NATIONAL FLOOD INSURANCE PROGRAM
(See Reverse Side for Privacy Statement)

OMB NO. 63-R1602

R REGULAR FLOOD INSURANCE PROGRAM

Regular Flood Insurance Program Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notice: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance. This policy is subject to the National Flood Insurance Act of 1968 and any Acts Amendatory thereof, and Regulations issued by the Federal Insurance Administration pursuant to such statute(s).

RENEWAL: YES ☐ NO ☐
(IF RENEWAL, USE SAME NUMBER)

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

Insured's Name and Mailing Address
Number, Street, City or Town, County, State, Zip Code)

Policy Term 1 Year, from _____ to _____
Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.) 12:01 AM. Standard Time at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ FIRM Zone # _____

ITEM NO.	AMOUNT OF INSURANCE a) First Layer b) Second Layer	RATES AND PREMIUMS — ACTUARIAL RATES	ACTUARIAL PREMIUMS (Check Box ☐ If $15 Expense Constant Included.)	PAYABLE BY THE INSURED RATES a) Payable b) Actuarial	PAYABLE BY THE INSURED PREMIUMS
1. Bldg.	a) $ _____ b) $ _____ $ _____ Total	_____	$ _____ ☐ $ _____ $ _____ Total	a) _____ b) _____	a) $ _____ ☐ b) $ _____ $ _____ Total
2. Cont's.	a) $ _____ b) $ _____ $ _____ Total	_____	$ _____ ☐ $ _____ $ _____ Total	a) _____ b) _____	a) $ _____ ☐ b) $ _____ $ _____ Total
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act of 1968.			$ _____	**Grand Total Premium Payable By Insured →**	$ _____

Description and Location of Property Covered
(Location same as mailing address above unless otherwise indicated)

Occupied as _____
Located at _____

On Contents consisting principally of _____
in the Enclosed Building Described Above ☐: or _____
Located at _____

Loss Payee (Contents): _____

INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert name(s) and Mailing Address(es) _____

Mortgagee pays new and renewal ☐ renewal only ☐

Base Flood Elevation from FIRM = _____
First Floor Elevation — Certify = _____
Dift. Plus (+) or Minus (−) To Nearest Foot = _____

Does Insured Qualify as "Small Business?" Yes ☐ No ☐

Is Structure Single Family ☐; 2-4 Family ☐; Other Residential ☐; All Other ☐

Is This a Motel or Hotel Structure with normal occupancy of less than six (6) Months? Yes ☐ No ☐

Is this "New Construction or Substantial Improvement"? Yes ☐ No ☐

Date New Construction or Substantial Improvement started _____

Is structure within ☐ corporate limits or ☐ unincorporated area of county.

One Story — Basement	☐	No Basement ☐
Two or more Stories — Basement	☐	No Basement ☐
Split Level — Basement	☐	No Basement ☐
Mobile Home on Foundation	☐	

Masonry walls-slab foundation	☐
Masonry walls-other foundation	☐
All other walls-slab foundation	☐
All other walls-other foundation	☐

Check only one box

Contents Rated as:	Residential	All Other
All in Basement —	☐	☐
All on First Floor —	☐	☐
All on First Two Floors —	☐	☐
All on First Floor & Basement —	☐	☐
All on First Two Floors & Basement —	☐	☐
All above First Floor —	☐	☐
All in Mobile Home on Foundation	☐	☐

_____ DATE OF APPLICATION

The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

_____ SIGNATURE OF INSURED OR AGENT

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

TO BE COMPLETED BY F.I.A. SERVICING OFFICE

SERVICING OFFICE NAME AND ADDRESS

COUNTERSIGNATURE DATE AUTHORIZED REPRESENTATIVE

INSURED'S COPY

HUD-1660 (9-77)

PRIVACY ACT STATEMENT

The information requested is necessary to process your application for flood insurance. The authority to collect the information is Title 42, U.S. Code, Section 4001 to 4028. It is voluntary on your part to furnish the information. It will not be disclosed outside of the U.S. Department of Housing and Urban Development, except to the servicing office, acting as the government's fiscal agent, and to claims adjustors to enable them to confirm coverage and the location of insured property or as required or permitted by law. Failure by you to provide some or all of the information may result in delay in processing or denial of your application or payment of claim.

Appendix B (2)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION – NATIONAL FLOOD INSURANCE PROGRAM

Form Approved
OMB No. 63–R1602

Emergency Flood Insurance Program
Application and Declarations Form
(For Use Only With the Flood Insurance Policy)

EMERGENCY FLOOD INSURANCE PROGRAM

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

Important Notice: This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance. This policy is subject to the National Flood Insurance Act of 1968 and any Acts Amendatory thereof, and Regulations issued by the Federal Insurance Administration pursuant to such statute(s).

RENEWAL: YES ☐ NO ☐
(IF RENEWAL, USE SAME NUMBER)

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

Insured's Name and Mailing Address
(Number, Street, City or Town, County, State, Zip Code)

Policy Term 1 Year, from _____ to _____
Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.) 12:01 AM (Standard Time) at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

Community # _____ Property in Zone A? Yes ☐ No ☐

ITEM NO.	AMOUNT OF INSURANCE	RATE	PREMIUM	DESCRIPTION AND LOCATION OF PROPERTY COVERED (Location same as mailing address above unless otherwise indicated)
1. Bldg.	$_____	_____	$_____	Occupied as _____ Located at _____
2. Conts.	$_____	_____	$_____	On Contents consisting principally of _____ in the Enclosed Building Described Above ☐; or Located at _____
				Loss Payee (Contents):
Notice: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act of 1968.		**Total Premium →**	$_____	INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert Name(s) and Mailing Address(es) _____

Second Mortgagee Exists Yes ☐ No ☐

Mortgagee pays new and renewal ☐1 renewal only ☐2

Does insured qualify as "Small Business" Yes ☐Y No ☐N

Is structure Single Family [1]; 2–4 Family [2]; Other Residential [3]; All other [4]

Is this a Motel or Hotel Structure with normal occupancy of less than six (6) months? Yes ☐Y No ☐N

Is this "New Construction or Substantial Improvement"? Yes ☐Y No ☐N

Date New Construction or Substantial Improvement started _____

Is structure within ☐ corporate limits or ☐ unincorporated area of county.

One Story—Basement	☐1	No Basement	☐2
Two or More stories—Basement	☐3	No Basement	☐4
Split Level—Basement	☐5	No Basement	☐6
Mobile Home on Foundation	☐7		

Masonry walls-slab foundation	☐1	Check only one box
Masonry walls-other foundation	☐2	
All other walls-slab foundation	☐3	
All other walls-other foundation	☐4	

Contents Rated as	Residential	All Other
All in Basement	☐04	☐13
All on First Floor	☐05	☐14
All on First Two Floors	☐06	☐15
All on First Floor & Bsmt.	☐07	☐16
All on First Two Floors & Bsmt.	☐08	☐17
All Above First Floor	☐09	☐18
All in Mobile Home on Foundation	☐03	☐19

TO BE COMPLETED BY F.I.A. SERVICING OFFICE

SERVICING OFFICE NAME AND ADDRESS

COUNTERSIGNATURE DATE AUTHORIZED REPRESENTATIVE

DATE OF APPLICATION

The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

SIGNATURE OF INSURED OR AGENT

Agent's Tax Number _____

Agent Certifies that following matters have been discussed with insured:
1) That loss already in progress on date of application is not covered;
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

INSURED'S COPY

HUD-1660.1 (9-77)

PRIVACY ACT STATEMENT

The information requested is necessary to process your application for flood insurance. The authority to collect the information is Title 42, U.S. Code, Section 4001 to 4028. It is voluntary on your part to furnish the information. It will not be disclosed outside of the U.S. Department of Housing and Urban Development, except to the servicing office, acting as the government's fiscal agent, and to claims adjustors to enable them to confirm coverage and the location of insured property or as required or permitted by law. Failure by you to provide some or all of the information may result in delay in processing or denial of your application or payment of claim.

[FR Doc. 78-1053 Filed 1-16-78; 8:45 am]

federal register

TUESDAY, JANUARY 17, 1978
PART IV

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

OCCUPATIONAL EXPOSURE TO ACRYLONITRILE (VINYL CYANIDE)

Proposed Standard and Notice of Hearing

[4510-26]

Title 29—Labor

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

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard for Occupational Exposure to Acrylonitrile (Vinyl Cyanide); Notice of Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Emergency Temporary Standard: Notice of hearing.

SUMMARY: By this emergency temporary standard (ETS), the Occupational Safety and Health Administration (OSHA) amends its present standard concerning employee exposure to acrylonitrile (AN) (also known as vinyl cyanide) and reduces the permissible exposure level from 20 parts acrylonitrile per million parts of air (20 ppm), as an 8-hour time-weighted average concentration, to 2 ppm, with a ceiling level of 10 ppm for any 15-minute period during the 8-hour day. In addition, the standard includes an action level of 1 ppm as an 8-hour time-weighted average. Provision is also made for specific exemptions in the standard for certain operations involving the processing, use and handling of products fabricated from polyacrylonitrile (PAN). The basis for this ETS is OSHA's determination that laboratory and epidemiological data indicate that continued exposure to acrylonitrile presents a cancer hazard to workers. A grave danger therefore exists for workers exposed to AN, necessitating the issuance of an emergency standard to protect them. In addition, the ETS requires the measurement and control of employee exposure, personal protective equipment and clothing, employee training, medical surveillance, work practices, and recordkeeping. The ETS will be superseded by a permanent standard withing six months. A proposed permanent standard for occupational exposure to acrylonitrile is published elsewhere in today's FEDERAL REGISTER.

DATES: The effective date for this ETS is January 17, 1978. The period for receipt of written data and comments on the proposed permanent standard will run through February 21, 1978. Notices of intention to appear at the informal rulemaking hearing on the proposal must be postmarked by February 27, 1978. Documentary evidence and witness statements for the hearing must be received by March 7, 1978. The public hearing on the proposed permanent standard will commence on March 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Gail Kleiner, Office of Carcinogen Standards, OSHA, Third Street and Constitution Avenue, NW., Room N-3654, Washington, D.C. 20210, 202-523-9603.

SUPPLEMENTARY INFORMATION:

I. APPLICABILITY OF EMERGENCY TEMPORARY STANDARD (ETS)

The accompanying document is an emergency temporary standard issued pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911. The new standard, § 1910.1045, applies to all industries covered by the Act, including "general industry," construction, and maritime.

In addition, pursuant to section 4(b)(2) of the Act, OSHA has determined that this emergency temporary standard is more effective than corresponding standards now applicable to the maritime and construction industries and currently contained in Subpart B of Part 1910, and Parts 1915, 1916, 1917, 1918, and 1926 of Title 29, Code of Federal Regulations. Therefore, those corresponding standards are superseded by the new standard in § 1910.1045.

Pursuant to section 6(c)(3) of the Act, OSHA is commencing a rulemaking proceeding under section 6(b) of the Act, to establish a permanent standard for occupational exposure to acrylonitrile. The proposed permanent standard encompasses those areas of occupational safety and health that are considered appropriate for the permanent regulation of acrylonitrile by OSHA. A hearing is scheduled on the proposed permanent standard, to begin March 21, 1978.

The development of a permanent standard will be conducted pursuant to the rulemaking procedures of section 6(b) of the Act. The Assistant Secretary's decisions on the provisions of the final standard will be based on the entire record developed, including public comments and the informal rulemaking hearing.

II. EVENTS LEADING TO THE EMERGENCY TEMPORARY STANDARD

Occupational exposure to AN is currently limited by the Occupational Safety and Health Administration (OSHA) to an 8-hour time-weighted average of 20 ppm (or approximately 45 mg/m^3) as found in Table Z-1 of 29 CFR 1910.1000.

In March 1977, the Manufacturing Chemists Association (MCA) informed OSHA of the interim results after one year of a planned two-year study being conducted by Dow Chemical Co.'s laboratories on the chronic toxicity of ingestion of acrylonitrile by rats. (*3*) Sacrifices of some of the animals after one year showed the development of various tumors, including central nervous system (CNS) and ear canal tumors, among the treated animals, but not among the controls. The tumors were found in animals exposed to 100 and 300 ppm, respectively, in their drinking water. Later reports from MCA, in April, indicated that similar tumors had been found in rats in the lowest exposure group in the test, 35 ppm, and that findings after one year of a continuing two-year study of inhalation of AN by rats noted "comparable" CNS tumors in animals inhaling 80 ppm AN. (*1*)

In May 1977, E. I. duPont de Nemours & Co., Inc. (duPont) informed OSHA of the preliminary results of an epidemiological study demonstrating an excess of cancer among workers exposed to acrylonitrile at a duPont textile fibers plant in Camden, South Carolina. (*5*) For the cohort of 470 workers first exposed to acrylonitrile in the polymerization operation between 1950 and 1955, a total of 16 cancer cases occurred between 1969 and 1975, as compared with 5.8 expected (based on duPont Company rates). Six of the 16 cases were lung cancers (vs. 1.5 expected), three were cancers of the large intestine (vs. 0.5 expected), and the remaining seven were from seven other primary sites. All of the cancer cases occurred among the approximately 350 workers in the cohort who were first exposed to acrylonitrile during the startup of the plant between 1950 and 1952. Although duPont stresses the preliminary nature of these findings, the company did state that when considered in light of the recent animal tests, "(they) raise a serious suspicion that it (acrylonitrile) may be a human carcinogen."

On June 29, OSHA published a request for information on acrylonitrile in the FEDERAL REGISTER (42 FR 33043) (this document was published again in the FEDERAL REGISTER on July 5, 1977 (42 FR 34326)). In this document, OSHA discussed the new information that had been received from MCA and duPont, and requested specific information on various issues relating to occupational exposure to AN. Interested persons were requested to furnish information by July 29, 1977.

OSHA received 25 replies to the request for information, many of which contained considerable data and technical details on the manufacture and use of acrylonitrile, areas of potential employee exposure, and other relevant material. (*9*)

Shortly after OSHA's request for information appeared in the FEDERAL REGISTER, on July 1, 1977, the National Institute for Occupational Safety and

Health (NIOSH) issued a "Current Intelligence Bulletin" on acrylonitrile, outlining the information received from MCA and duPont, discussing the other toxic effects of AN exposure, and recommending interim industrial hygiene practices to be implemented in the workplace to help reduce occupational exposure to acrylonitrile. (*11*)

On September 29, 1977 NIOSH provided recommendations for a revised standard for AN. A permissible exposure level of 4 ppm AN in air as determined by a 4-hour sample collected at a rate of 0.2 liter/minute was suggested. This recommendation was based on what NIOSH considered to be the current analytic limits of the air measurement technique. (*12*)

A more recent communication from NIOSH dated December 7, 1977 said that "(a)lthough the preliminary results of the duPont epidemiologic study are inconclusive by themselves . . ., when viewed in light of the preliminary rat data the conclusion with regard to acrylonitrile is clear—the chemical must be viewed as a proven animal carcinogen and suspect human carcinogen. To do otherwise would be to place the health of exposed workers in jeopardy until more conclusive evidence ultimately surfaces." (*13*)

III. Reasons for the Emergency Temporary Standard

The Assistant Secretary finds that exposure to acrylonitrile poses a grave danger to humans. This finding reflects the results of the MCA animal studies (which clearly show that acrylonitrile is carcinogenic in animals), and the preliminary results of the duPont human epidemiological study.

The MCA studies show that malignant CNS tumors have been induced in rats by acrylonitrile at all dose levels by the oral route (35, 100, and 300 ppm), and thus far at 80 ppm by the inhalation route, Benign tumors of the stomach were found at the two high-dose levels in the ingestion study (i.e., 100 ppm and 300 ppm) and are also clearly related to the administration of acrylonitrile. Furthermore, the animal studies indicate that AN induces at least two different types of neoplasm in test animals. The interim results of the MCA studies are clear and convincing evidence of the carcinogenicity of acrylonitrile in animals, and therefore, the Assistant Secretary must treat acrylonitrile as posing a potential carcinogenic risk to humans.

Although the results of the duPont epidemiological study of the Camdem, S.C. plant are "preliminary", the findings of increased incidence of cancer, particularly cancer of the lung and colon, have been determined to be highly statistically significant. As the company stated in its conclusions, ". . . persons exposed to acrylonitrile at the textile fibers plant in Camden, S.C., are at greater risk of developing cancer, as compared with company, national, and regional experience." The duPont results are, therefore, highly supportive of the finding of carcinogenicity of acrylonitrile.

There is substantial support for the view that substances shown to cause cancer in animals must be treated as posing a carcinogenic risk to humans. In addition, the best available evidence indicates that no safe level for exposure to a carcinogen, including acrylonitrile, can be established at present.

The scientific determinations underlying the regulation of carcinogens have been the basis for prior policy decisions made, after scientific debate, by OSHA and other government agencies. For example, see the preambles to OSHA's carcinogen standard, applicable to 14 selected substances, 29 CFR 1910.1003-1910.1016 (39 FR 3758) aff'd, "Synthetic Organic Chemical Manufacturers Assn. v. Brennan," 503 F. 2d 1155 (3d Cir. 1974); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892), aff'd, "The Society of the Plastics Industry v. OSHA", 509 F. 2d 1301 (2d Cir.), cert. den., 421 U.S. 992 (1975); the coke ovens emissions proposal (40 FR 32268 (1975)) and final, 29 CFR 1910.1029 (41 FR 46742 (1976)); and the DBCP emergency temporary standard, 29 CFR 1910.1044 (42 FR 45536 (1977)).

OSHA has outlined the agency position on regulation of carcinogens, along with a detailed discussion of the scientific evidence supporting such regulation, in the proposed rules on identification, classification, and regulation of toxic substances posing a potential occupational carcinogenic risk ("Cancer Policy"), which was published in the Federal Register on October 4 (42 FR 54148). In the proposed Cancer Policy, OSHA restates the determination that as a prudent policy matter, in the absence of a demonstrated safe level or threshold for a particular carcinogen, it must be assumed that none exists. ". . . (O)nce a qualitative presumption of carcinogenicity has been established for a substance, any exposure to the substance must be considered to be attended by risk when considering any given population. No exception to this point has yet been demonstrated." (42 FR at 54166.)

That cancer and substances which cause cancer pose a grave danger within the meaning of section 6(c)(1)(A) needs little supportive discussion. The nature of the cancer hazard differs from many other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible, and usually fatal consequences. No symptomatic evidence of the development of the cancer may be apparent to the employee during a long latency period of 10-30 years or more. (In the duPont study, this fact was recognized by the investigators, whose determinations of increased cancer incidence were based upon 15 and 20 year latency periods for the cohorts involved.) In some cases, a single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide immediate protection for employees through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

The need for immediate regulation to limit exposure to acrylonitrile is apparent from the above discussion. As a carcinogen, acrylonitrile can pose its life-threatening danger in a very brief period of exposure. Without this emergency temporary standard, employees would continue to be exposed to this threat during the period of time necessary to complete the normal rulemaking process. Issuance of this ETS is, therefore, necessary to protect employees from this grave danger.

IV. Background

A. Physical Properties, Manufacture and Use of Acrylonitrile

Acrylonitrile ($CH_2=CHCN$; CAS #000107131) (AN) is a widely used chemical intermediate in the manufacture of acrylic fibers, synthetic rubbers and plastics. (*6*) Its use in the manufacture of a number of acrylic fibers and copolymer resins accounts for most of the 1.5 billion pounds of AN produced annually in the United States. (*7*) AN is a clear, colorless (when pure) or yellowish liquid with a characteristic odor at relatively high concentrations and a molecular weight of 53.06. It is very reactive and polymerizes violently in the presence of strong bases. Pure AN is subject to self-polymerization with rapid pressure development (the commercial product is inhibited and not subject to this reaction). AN is a volatile (vapor pressure 83 mm Hg at 68° F), flammable liquid with a flash point of 30° F (open cup), is easily ignited and may release cyanide gases when burned, especially where the supply of oxygen is limited. Its vapors are heavier than air, and when diffused over a considerable range of concentrations in air (3 percent-17 percent by volume), are highly explosive. Synonyms for AN include acrylon, carbacryl, cyanoethylene, fumigrain, 2-propenenitrile, VCN, ventox, and vinyl cyanide. (*8*)

AN is produced almost exclusively by the ammoxidation of propylene in the presence of a catalyst. Approximately 1.5 billion pounds of AN were

produced in the United States in 1976. Current producers of AN in the U.S. are American Cyanamid, duPont, Monsanto, and Vistron (SOHIO).

The major use of AN is in the production of acrylic and modacrylic fibers by copolymerization with other monomers such as methyl acrylate, methyl methacrylate, styrene, vinyl bromide, binyl acetate, vinyl chloride, or vinylidene chloride, individually or in combination. Acrylic fibers are, by definition of the Federal Trade Commission, fibers composed of at least 85 percent (by weight) acrylonitrile units. Fibers composed of at least 35 percent but less than 85 percent acrylonitrile units are referred to as "modacrylic fibers." AN-based synthetic fibers are used in the manufacture of apparel, carpeting, blankets, draperies, and upholstery. Major producers of acrylic and modacrylic fibers include American Cyanamid Co., Dow Badische Co., E. I. duPont de Nemours & Co., Tennessee Eastman Co., and Monsanto Corp. Acrylic and modacrylic fiber production constituted 50% of the total AN consumption in the United States in 1976.

The manufacture of acrylic fibers involves four basic steps. First, the acrylonitrile must be polymerized; second, the polymer must be dissolved in a solvent to form a viscous solution which can be forced through a spinnerette (spinning head); third, the polymer must be spun into fiber; and, fourth, the fibers must be processed, crimped, cut, dried, and baled. The production of acrylic fibers is done by either wet-spinning or dry-spinning. Both methods require that the polymer be dissolved in a suitable solvent. The solvent used may vary from company to company.

The dissolved polymer is extruded through the spinnerette, or spinning head, which is a metal plate with thousands of tiny holes in it. The polymer is extruded through the holes in the spinnerette and coagulated to form the fibers. The solvent and excess, or residual AN monomer are then removed from the fibers. In dry-spinning, the solvent is removed by hot gases. In wet-spinning on the other hand, the fibers are extruded into another liquid bath, which serves to remove the solvent. For both types of spinning, the resulting fibers must be stretched to increase their strength, and then crimped to provide the desired texture and facilitate processing on textile machinery. Where the wet spinning process is used, the fibers are drawn from the coagulation bath through various warm water baths to remove any remaining solvent before they are drawn through the hot water stretching bath. It is during this stage of the wet-spinning process, between the coagulation bath and the hot water stretch, that potential employee exposure to acrylonitrile is greatest, since residual AN monomer in the fiber is being driven off along with the solvent.

At the drying stage, there is a negligible exposure to AN monomer of persons handling the acrylic fibers for further processing. This is because residual AN levels are usually well below 20 parts per million for all finished fibers and the fibers do not release their residual AN easily. In the dry, cool state the fibers are linear in structure and the polymer units are tightly coiled. At the glass transition temperature the polymer uncoils, allowing the release of anything being held in that coil (e.g., residual monomer or water). Since the fiber has a great affinity for water and water tends to extract the residual AN, removal of residual AN at the wet glass-transition temperature is fairly complete. As the fibers are normally washed at this temperature during processing, little residual AN remains in the final product. Because polymers such as acrylic fibers, which contain long sequences of AN units, tend to cyclize (i.e., form a new polymer with chains of 6-sided rings) at temperatures above 250°C instead of reverting to their component monomers, little, if any acrylonitrile exposure results from decomposition of the fibers.

Other major uses of AN include the manufacture of ABS (AN-Butadiene-Styrene) and San (Styrene-AN) resins and plastics, nitrile elastomers, and latexes (rubbers), and as an intermediate in the production of other chemicals such as adiponitrile and acrylamide.

ABS resins and plastics are produced from three monomers, acrylonitrile, butadiene, and styrene, and have a wide range of uses. They can be processed in many different ways into a variety of fabricated products. In the manufacture of ABS resins butadine and styrene are copolymerized to form a "spine", or base polymer. Styrene and acrylonitrile chains are then grafted onto this base polymer. In a separate operation, acrylonitrile and styrene are copolymerized to form a resin, and this resin is then mixed with the grafted polymer to produce a latex. The latex is then flocculated (formed into clumps), filtered, washed, and dried.

Potential exposure to acrylonitrile occurs at many points during the ABS resin manufacturing process. This operation involves the conveyance of AN monomer from storage tanks to various process areas and necessarily includes many valves, gaskets, pipes, sampling points, and other areas where AN may be released, either from leaks in the equipment or from the opening of the system, as during sampling. In addition, the blending, flocculation, and drying areas are potential areas of exposure, because the mechanical and heat processing of the polymer latex causes residual AN in the polymer to be released. Since suspension and solution polymerization processes involving latex or slurry usually result in relatively high levels of residual AN, the processing of the polymer can result in a substantial release of AN.

The manufacture of nitrile rubber from acrylonitrile and butadiene also involves the processing of latex and slurry, and therefore, includes similar areas of potential exposure to AN monomer. In addition, the polymerization process for the production of nitrile rubber results in higher employee exposures (both actual and potential), since the polymerization process is not complete when the contents of the reactor, called the "charge", are transferred to the blowdown tank. The latex, therefore, contains a considerable amount of residual monomer when it is moved from the blowdown tank to the distillation tank for "steam-stripping" (steam-stripping involves the removal of residual monomer with steam). Even after stripping, the latex contains enough AN monomer to cause high exposures in the coagulation tank area, and subsequently in the washing and drying areas.

Because of the presence of residual acrylonitrile monomer in virtually all AN-based polymers, it is necessary to discuss the potential for exposure of employees who process acrylic fibers, ABS resins, and other materials.

The low level of residual AN in acrylic fibers, once they are crimped and cut, as well as the degree to which the AN is bound up in the polymer, makes the handling of acrylic fibers an unlikely source of acrylonitrile exposure. In order to release the residual AN from the fibers, it is necessary to heat them to their glass-transition temperatures, which would discolor and spoil the product. In addition, even if such temperatures were to be reached, the low amounts of residual AN which are present in the fibers (less than 20 ppm, from data submitted to the record) would not be expected to result in a significant exposure situation.

Where the intermediate product is a polymer latex or solution, as with polymer polyols, there is a definite possibility of AN exposure of employees involved in the processing of that product into a final product. For example, where the product is processed by heat or pressure, as is done in polyurethane foam fabrication, residual AN monomer in the polymer may be driven off. If the stripping of monomer from the polymer before it is packaged for further processing is incomplete, there may be sufficient monomer left in the polymer to result

in substantial exposures of employees handling it in subsequent processing operations.

The wide use of ABS resins in plastics manufacture provides a major potential source of employee exposure to AN. ABS resins are extremely versatile polymers, and they may be processed into finished parts by almost any of the generally recognized thermoplastic conversion processes, such as injection molding, extrusion, and other basic thermoforming techniques. ABS plastics can also be mechanically formed into parts by blow-molding or cold stamping of sheet plastic for example.

Besides being used alone to make fabricated products, ABS resins can be combined with other resins, such as PVC in various ratios, to produce products with wide-ranging qualities and capabilities.

Thermoplastic processing of ABS resins involves a melting of the polymer, followed by injection into a mold, extrusion of ABS into sheet or pipe, thermoforming of extruded ABS sheet plastic into products, or comparable processes. When the polymer is melted, residual AN monomer may be released into the workplace.

It would appear that in general the higher the residual AN content of the polymer, the higher the resultant levels of AN vapor released into the workplace. However, because of the extremely wide use of ABS resins, and the wide range of uses and processing techniques employed, no precise correlation can be made between the level of residual AN in the ABS resins and AN exposures during thermoplastic processing operations.

A further difficulty connected with ABS resins and plastics involves the phenomenon of "depolymerization." Due to the nature of the polymer chains and grafts in ABS plastics, when they are heated to temperatures well in excess of their melting points, the polymers tend to revert to their component monomers. Although this phenomenon would more likely occur because of an accident or abnormal situation, such as the overheating of an extrusion head, the possibility of its occurrence in any situation involving heat-processing must be considered. (*9*)

B. HEALTH EFFECTS OF EXPOSURE TO ACRYLONITRILE

1. *Carcinogenicity—Evidence in Animals.* In March 1977, Dow Chemical Co. laboratories prepared an interim report on a 2-year rat ingestion study of acrylonitrile, which it is conducting under the auspices of the Manufacturing Chemists Association (MCA), to assess AN's chronic toxicity and potential carcinogenicity. (*3*) In this study, AN was incorporated in the drinking water of Sprague-Dawley rats at concentrations of 0, 35, 100, and 300 ppm. The number of animals at the beginning of the study was approximately 50 animals/sex/group, plus an additional 10/sex/group intended for interim sacrifice after the first year. The interim report issued by Dow contained data on the pathological examination of the sacrificed animals. This report showed an increased incidence of tumors of the stomach, central nervous system (CNS), and Zymbal gland of the ear canal in rats receiving 100 and 300 ppm acrylonitrile. For the combined male and female rats, the incidence of the various tumors was as follows: stomach papillomas were 1 of 20 rats at 100 ppm and 12 of 20 at 300 ppm; CNS tumors were 6 of 20 rats at 100 ppm and 3 of 20 at 300 ppm; and Zymbal gland carcinomas were 2 of 20 at 100 ppm and 2 of 20 at 300 ppm. No such tumors were found in the control rats.

In a letter from MCA on April 11, 1977, it was reported that the same type of CNS tumors as seen in the groups of rats receiving doses of 100 and 300 ppm had been found in two rats at 35 ppm, the lowest test level. (*1*) The CNS tumors seen at all test levels of this study were microglioma, primarily of the brain and one of the spinal cord. This type of tumor is rare and unusual in the rat, occurring spontaneously at a rate of approximately 1% or less.

In a 2-year study being conducted by Dow involving inhalation exposure of rats to acrylonitrile, male and female rats are being exposed to 0, 20, and 80 ppm acrylonitrile for 6 hours per day, 5 days per week (*1*) After the first year of the study, 13 rats per sex, per dose were sacrificed, and the following results were reported: 3 rats in the 80 ppm group had tumors of the CNS which were reported to be "comparable" to those reported in the 2-year ingestion study; increased incidences of ear canal tumors and mammary region masses were detected at the 80 ppm level; an apparent increase in the subcutaneous masses of the mammary region was detected in the rats in the 20 ppm group; and no ear canal or CNS tumors were seen in the rats in the 20 ppm group. The finding of similar tumors in the inhalation and ingestion studies gives evidence of the apparently systemic nature of the carcinogenic effect of acrylonitrile after absorption.

With the exception of the mammary gland tumors and ear canal tumors, all types of neoplasms discovered in the treated animals are relatively rare in 18-24 month-old rats, occurring spontaneously at an incidence of approximately 1%.

In his evaluation of the data from the MCA-sponsored animal studies on acrylonitrile, Dr. Robert Squire, a recognized pathologist/oncologist and Associate Professor at the Johns Hopkins University School of Medicine, made the following observations:

> Interim or preliminary data is not customarily considered appropriate for carcinogenic evaluation, since the more common tumors which occur with variable incidence in test animals may produce false positive trends which are not supported by final observations.
>
> However, particularly in the case of brain and stomach tumors of this type, immediate concern is warranted by the interim observations. These are rare tumors which do not occur in any rat strain at any age at incidences comparable to those observed in this experiments. Experience in laboratory animal oncology, plus the recent observations of additional tumors in remaining treated animals indicates that the evidence for carcinogenic effect will undoubtedly become more conclusive as the experiments progress.
>
> The conclusions can clearly be drawn that acrylonitrile is carcinogenic under the conditions of this experiment. There is definite indication that malignant neoplasms of the central nervous system were induced at all dose levels by the oral route and at the 80 ppm level in the inhalation study. Benign gastric neoplasms, and preneoplastic epithelial alterations in the stomach are also clearly treatment related.
>
> Although the malignant ear neoplasms and the mammary neoplasms occurred with low incidence in the initial report of interim observation, their numbers still exceeded that in the controls, and that expected according to historic observations. A tentative conclusion must be that these are also treatment related. (*10*)

In addition, three other Board Certified Pathologists, Drs. David Groth, Choudari Kommineni, and Ralph Yodaiken, all currently employed by NIOSH, examined the rat-tissue sections prepared by Dow and reviewed the results of the MCA studies. Their reports were transmitted to OSHA in a NIOSH memorandum dated December 7, 1977. In his report, Dr. Yodaiken stated that

> (d)espite the small number of animals (10 per group) examined thus far, the results are both statistically and biologically significant. Acrylonitrile appears to be responsible for malignant change occurring in the central nervous system; the ceruminous glands of the ear canal, far in excess of any spontaneous tumor incidence; and possibly for the early appearance of mammary gland tumors. The papillomata of the stomach must be considered both directly related to the ingestion of the acrylonitrile and premalignant. In their report, Drs. Groth and Kommineni note that "(i)t is interesting that there is a dose response relationship with the stomach papillomas but not with the brain tumors (incidence being about the same in both high dose groups)" and conclude that "* * * acrylonitrile is a carcinogen in rats." (*13*)

Evidence in humans. In May 1977, E. I. duPont de Nemours and Co., Inc. (duPont) made available to OSHA the preliminary results of an epidemiologic study of duPont workers at the company's textile fibers plant in Camden, South Carolina (*5*). The

study indicated excess cancer incidence and cancer mortality as compared with company and national experience. The study included 470 male employees who began working in the polymerization area of the plant between 1950 and 1955 and who were either still actively employed by, or had retired from the company.

The study analyzed data through 1975, allowing for a 20-year latency period for the cohort studied. The company observed an incidence of 16 cancer cases among active employees, as compared with an expected number of 5.8 (based on company rates) or 6.9 (based on national rates). Of the 16, there were six lung cancers (1.5 expected), three colon cancers (0.5 expected), and one cancer in each of seven other primary sites as compared with fractional expected values. The differences between observed and expected cases were statistically significant.

DuPont reported that all cancers found occurred among those employees who were first exposed to AN between 1950 and 1952. This is not surprising in light of the latency period for various forms of cancer which can range up to 20 years or longer. Although there is little or no data available on employee exposures to AN during this period, there is also no safe level currently known for exposure to carcinogens. While it is conceivable that the exposures in question were well above those later achieved in these operations, the duPont study does not indicate the levels to which these employees were exposed, and no direct correlation has been demonstrated between any specific level of exposure and the increased incidence of cancer in this cohort. Even if such direct correlation could be made, this would not establish the level which actually induced the cancers observed. Some of the individual cancers in question may have actually been initiated at exposures well below that particular level. The complexity of carcinogenesis, including the factors of the long latency periods involved and the multitude of conditions relating to individual sensitivities to carcinogens make it difficult at this point in time, to demonstrate that exposure to any specified quantity of AN is, in fact, safe.

DuPont also reported that mortality data for the same cohort showed eight cancer deaths, as opposed to 4.0 (company rates) or 5.1 (national rates for white males in 1970) expected. These differences were also statistically significant. Of the eight cancer deaths, four were from lung cancer (1.5 expected), while the other four were cancers of different primary sites.

DuPont is presently attempting to trace an additional 484 employees who were first exposed to acrylonitrile in the Camden plant between 1950 and 1955, but who had either been laid off or quit employment with the company.

In a letter accompanying the preliminary results of the study, the corporate medical director for duPont stated that while the company does not consider the study to provide definitive evidence that acrylonitrile is carcinogenic in man, "these findings, when considered together with the results of the animal tests which were reported previously, raise a serious suspicion that it may be a human carcinogen." (*5*) While these data show a higher frequency of lung and intestinal cancer, these tumor types alone are not entirely responsible for the significant excess of cancer seen in the cohort. Although the variety of primary tumor sites observed is an unusual manifestation of carcinogenic response, this finding is corroborated by a similar pattern shown in the animal ingestion and inhalation studies described above.

In their analysis of the duPont report, NIOSH has stated:

> (I)t is interesting to note that, in addition to these two specific sites, cancer of eight additional sites (prostate, lymphosarcoma, Hodgkins, (penis), thyroid, nasopharynx, bladder, and pancreas) occurred among the workers in this cohort. As pointed out by the investigator, this nonspecificity of tumor site is reflected in animal studies in which acrylonitrile was ingested or inhaled.
>
> Interpretation of these results is severely limited by two major factors:
>
> (1) The vital status of a large proportion (36%) of the cohort has not yet been determined, and
>
> (2) complete work histories have not been obtained to provide information on exposure to substances other than acrylonitrile.

However, the excess of lung cancer and cancer of the large intestine in both the morbidity and mortality analysis is clearly suggestive of a cancer problem among acrylonitrile workers." (*13*)

The influence, if any, of cigarette smoking is relevant when assessing the factors which may contribute directly or indirectly to any excess of lung cancer in humans. The authors noted that the preliminary report did not include the smoking histories of the cohort, but the final analysis is expected to do so.

Finally, duPont's epidemiologist concludes in her report that:

> Based on these preliminary findings, it can be concluded that persons exposed to AN at the textile fibers plant in Camden, South Carolina, are at greater risk of developing cancer, as compared with company, national and regional experience. (*5*)

2. *Mutagenicity.* The detection of carcinogens as mutagens has been shown to be 85–90 percent accurate in the *Salmonella typhurium* assay described by Joyce McCann, et al. (*14, 15*) It has been shown to have similar accuracy in identifying noncarcinogenic chemicals, although some carcinogenic mutagens, such as dimethylnitrosamine, first require metabolic conversion to their active form. As yet unpublished research has shown that an assay procedure with *S. cerevisae* is about 60 percent accurate in the detection of those carcinogens which increase the rate of mitotic recombination. (*16*) Although the test systems are not 100 percent accurate and neither a positive nor a negative response absolutely proves a chemical to be hazardous or nonhazardous to humans, the use of both assay procedures significantly enhances the probability of detecting potentially hazardous chemicals.

Several researchers employing a variety of methods, have investigated the mutagenic potential of acrylonitrile. AN has been shown to be weakly positive in two separate bacterial mutagenesis tests using the Ames *Salmonella* system. (*17*) In the presence of a mouse liver homogenate, AN produced mutations in the TA 1535, TA 1538 and TA 1978 strains of *Salmonella typhurium* at low atmospheric concentrations (exposures to 57 ppm resulted in mutagenic effects). The use of an exposure chamber facilitated the control of the exposure atmosphere and minimized inaccuracies stemming, in part, from the high volatility of AN.

Another study indicated that AN is weakly mutagenic to TA 1535 metabolically activated with rat liver homogenate. (*18*) Venitt, Bushell and Osborne found the mutagenic effects of AN on the WP2 series of *E. coli*, to be weak and "reliably demonstrable only within a narrow range of doses when measured by the plate tests." (*19*) These results were nevertheless statistically significant and highly reproducible. The authors repeated these experiments using the simplified fluctuation test described by Green, et al., which confirmed the results of the plate tests. (*20, 21*) This procedure also enabled the authors to reliably detect mutagenic activity at levels of AN which were 20 to 40 times lower than those used in the plate tests, thereby minimizing the effects of AN toxicity seen at the higher levels. These same authors were unable to reproduce the positive results reported by either the duPont Co. (*18*) or Milvy (*17*) when proceeding without the use of an exposure chamber. More confirmatory evidence of the mutagenicity of AN was provided by McCann, et al. in experiments incorporating the resistance transfer factor pKM 101 plasmid which increases microbial sensitivity to the mutagenic effects of chemicals. (*22*) As expected, AN was more mutagenic in this system. A limited positive mutagenic response was demonstrated by Brusick and Mayer in a study using the D4 strain of *Saccharomyces* in a

non-activated system, although the authors did not regard these results as signficant. (*23*)

Two studies done on six different strains of Salmonella which used neither the fluctuation test nor the exposure chamber methods showed no activity at all. (*16, 24*)

The wide variation of test results reported in the area of mutagenicity would appear to be closely related to the differences in the laboratory methods used and to the high volatility and toxicity of AN. The tests which gave negative results were done under experimental conditions which made no adjustments for these factors. Without repetition, using appropriately controlled conditions, these experiments could not be said to show that AN is non-mutagenic.

3. *Teratogenicity.* The effects of maternally ingested acrylonitrile on embryonal and fetal development have recently been studied in an attempt to further define the extent to which AN can affect biological systems.

In an evaluation of the teratologic effects of AN, Murray, et al. reported incidences of several significant fetal malformations as well as evidence of embryotoxicity. (*4*) Doses of 0, 10, 25 and 65 mg of AN/kg/day were given to pregnant Sprague-Dawley rats by gavage on days 6-15 of gestation. The highest dose-level was significantly maternally toxic and produced increases in a variety of malformations among the fetuses in addition to evidence of embryotoxicity. The next lowest dose, 25 mg AN/kg/day, produced less maternal toxicity and a low incidence of the same signs of embryotoxicity and fetal malformations. No evidence of maternal toxicity or effects on the developing embryos or fetuses was apparent at the lowest dose of AN administered (10 mg AN/kg/day). The possibility that maternal toxicity was the sole cause of the malformations seen in this study is discounted by the authors for two major reasons. First, their experience in other studies of this type indicates that the kinds of malformations seen here had historically not increased in incidence in fetuses of pregnant rats subjected to similar or even greater stress. Secondly, the degree of toxicity observed in the dams apparently did not correlate with the occurrence of malformations seen in their respective offspring.

In reproduction studies of a series of nitriles (acrylonitrile, adiponitrile and B,B'-oxydipropionitrile) conducted by Svirbely and Floyd, groups of Holtzman strain Sprague-Dawley rats were given 10, 100 and 500 ppm of the individual nitriles in their drinking water. (*25*) Data from two first-generation litters showed decreases in the indices of fertility, gestation and viability in the group given the highest doses of AN. Growth retardation was also seen in the offspring of this high-dose group and in addition, a progressive muscular weakness in the hind limbs of the females at the 500 ppm dose developed unexpectedly 16-19 weeks after the weaning of the second litter (while this study was to be continued through three generations, the data for the succeeding two generations was not made available).

In summary, it should be noted that in their final decision on Acrylonitrile Copolymers Used to Fabricate Beverage Containers, the Food and Drug Administration (FDA) stated that "the available toxicology data demonstrate that acrylonitrile is a teratogen, a mutagen, a tumorigen, and probably a carcinogen" (42 FR 48528 at 48542).

4. *Other toxic effects.* Acrylonitrile (AN) has long been recognized as a highly toxic substance, and its toxicity to humans and other mammals by inhalation, ingestion, skin contact and injection has been shown both clinically and experimentally.

Until recently the toxicity of AN was thought to be primarily due to the inhibition of cellular respiration by the in vivo release of cyanide ions (similar in its action to inorganic cyanide), and producing no permanent physiological damage. (*26, 27, 28*) There is now considerable evidence indicating that while the in vivo decompostion of AN may release some cyanide within the body, the primary toxic effect of this substance is a result of its own chemical composition. (*29, 30, 31, 32*)

Human symptoms of exposure to AN have been those associated with the CNS, gastrointestinal, respiratory, and peripheral blood systems. They have included headache, dizziness, abdominal pain and vomiting, fatigue, asthenia (weakness), diarrhea and jaundice as well as some instances of convulsions, chronic effects on enzyme systems and other biochemical disorders. Apart from the above effects which can result from exposures due to absorption through the skin, prolonged or repeated skin contact has been found to cause dermatitis due to the solvent effect of AN on the skin. Irritation and blistering has been reported in instances where AN has been held against the skin, with effects resembling a second degree thermal burn but with little or no accompanying pain.

In addition, acute intoxication resulting in death has been reported in children. Several children died while sleeping in rooms which had been disinfected with AN. (*36*) Another died four hours after AN was applied to the scalp as a delousing medium. (*37*)

Several cases of AN poisoning in workers were reported by R. H. Wilson in 1944. (*35*) The most frequent symptoms included slight jaundice, gastritis, respiratory oppression and fatigue. In a later study, Wilson reported that workers exposed to 16-100 ppm for 20-45 minutes experienced respiratory and nervous system effects. (*34*)

In an epidemiologic study of health impairment among acrylonitrile workers in Japan, Sakurai and Kusumoto studied 576 workers exposed to AN in concentrations of less than or equal to 5 ppm and less than or equal to 20 ppm over a 10-year period from 1960 to 1970. (*38*) The cohort was studied with respect to both age and length of exposure to AN, and subjective complaints as well as objective symptoms were examined. The authors found that increased incidences of subjective complaints including headache, fatigue, nausea and weakness, as well as of abnormal values of some of the objective tests, such as anemia, jaundice, conjunctivitis, specific gravity of whole blood, blood serum and cholinesterase values, urobilinogen, bilirubin, urine protein and sugar. These were found to vary directly with length of exposure to AN and were statistically significant. The authors concluded that AN exposures at these levels caused mild liver injury and a probable cumulative toxic effect.

Orushev and Popovski examined the results of a clinical study conducted on twenty workers exposed to AN vapors and others chemicals in an acrylic fibers plant. (*39*) The AN concentrations in the workroom air ranged from 3.0 to 20 mg/m³ (1.38 to 9 ppm), with an average value of 7.5 mg/m³ (3.4 ppm) of AN in air. Most of the symptoms observed were CNS-related.

The clinical symptomatology reported here is similar to that described by Shustov in workers employed in the production of AN. Shustov speculates that blood disorders detected may be the result of a disturbance of enzyme activity. (*40*)

In a later study of 390 Russia nitrone workers exposed to AN, methyl acrylate and sodium thiocyanate in the synthetic fiber industry, Shustov and Mavrina reported a number of systemic disorders, including changes in the cardiovascular and hematopoietic systems, the gastrointestinal tract and liver. (*41*) (Nitrone is a synthetic fiber made by polymerization of AN or by copolymerization of AN with methy acrylate in a sodium thiocyanate solvent). Measurements of AN in the work-room air ranged from 0.8 to 1.8 mg/m³ (0.37 to 0.83 ppm) with some areas reaching 3.75 mg/m³ (1.73 ppm). Subjective complaints among 340 nitrone production workers included headache, dizziness, insomnia, rapid fatigue, emotionality, itching of the skin and burning of the throat. Fifty workers with 3 to 10 years of service in other areas of this plant (e.g., equipment operators, laboratory workers, technicians and spinners) showed evidence of functional disorders of the

central nervous system. The systems most seriously affected were reported to have been the nervous system, the cardiovascular system and the hematopoietic system in addition to significant changes in enzyme systems and the gastrointestinal tract.

In a similar study conducted in two stages between 1965 and 1971, Zotova found exposures in the work-room air ranging from 2.5 to 5 mg/m³ (1.2 to 2.3 ppm) during the first period of the study and averaging 0.75 mg/m³ (0.35 ppm) during the second period. (*42*) The author also reports finding small quantities of residual AN on equipment, handrails, ladders, doors, door knobs, windows and floors as well as accumulations of AN on workers' bodies, shoes, boots and gas masks. Workers exposed to these concentrations were found to have exhibited malaise, headache, insomnia, irritability, chest pain and poor appetite as well as tendencies towards anemia, leukopenia, inhibition of enzymes and disorders of the oxidation-reduction processes as compared to a control group.

Mavrina and Il'ina tested the immunologic reactivity of forty-five 18- and 19-year-old trade school students exposed to AN, Methyl Acrylate and Sodium Thiocyanate before, during and after 3 months of exposure to workroom air concentrations of AN reportedly ranging from 0.8 to 1.8 mg/m³ (0.37–0.83 ppm). (*43*) Statistically significant increases in immunologic reactivity were noted, along with development of functional disorders of the nervous system. Changes were also observed in the peripheral blood picture with decreases in numbers of erythrocytes, hemoglobin levels and leukocytes and increases in the number of eosinophilis in a fourth of the subjects.

Since the reports of the above-mentioned studies do not, for the most part, include the data collected or much description of the experimental methods or analytical techniques used, critical evaluation of these studies is not possible. Their value is enhanced, however, by the similarities of the findings reported by the various researchers and the correlation of the systems effected with those implicated in the animal studies. Of particular interest is the frequency of CNS-related symptoms in view of the data reported on CNS tumors in both the animal and human studies. The potentially serious nature of possible chronic toxic effects of AN (even at the low levels reported by these authors) must be given due consideration.

The present 20 ppm standard for AN was originally based on a comparison of the toxicities of AN and hydrocyanic acid (HCN) in humans and animals and the assumption that AN is almost completely hydrolyzed to HCN. In 1942, Dudley and Neal concluded that the toxicity of AN is attributable to a molecular cleavage with production of HCN and separation of the CN group which actively interferes with tissue respiration. (*27*) Ten years later Brieger, Rieder and Hodes (1952) exposed rats to several concentrations of AN vapors and found small quantities of HCN in the blood of those exposed to 100 ppm of AN vapors while none was detected in rats exposed to lower concentrations. (*26*) These authors concluded that AN is metabolized to cyanide in vivo while others (Benes and Cerna, 1959; (*29*) Paulet and Desnos, 1961; (*30*) Paulet, Desnos and Battig, 1966; (*31*) and Hashimoto and Kanai, 1965 (*32*) have since concluded that the toxicity of AN is due to the whole molecule rather than to liberated HCN. The mode of action of AN toxicity remains a debatable issue and is still under investigation.

In 1947, Tullar reported fatalities in the males of different animal species resulting from oral, intraperitoneal or intravenous administration of AN in doses ranging from 36 to 85 mg/kg given at different rates over various periods of time. (*44*) The author found AN to be relatively toxic and to be very slowly eliminated from the body. Although this two-year feeding study was not specifically designed to investigate the potential carcinogenicity of AN, four of the test rats developed tumor-like growths while none of these were found in the control animals. In addition, no similar growths were found in any of the approximately 400 other rats from the same stock, nor were such tumors found in the breeding stock from which these animals were taken.

Other reported toxic effects of AN in animals include damage to the central nervous system, lungs, liver, kidneys, cardiovascular system and blood elements. In 1971 and 1972, Knobloch, et al. observed acute lesions and edema of the central nervous system (CNS) and evidence of neuronal damage following acute subcutaneous, intraperitoneal or inhalation administration of lethal and sublethal doses of AN in rats. (*45, 46*) Histological damage to neurons was noted after three weeks of daily intraperitoneal injection of 50 mg/kg and neuronal edema and chromatolysis after 6 months of inhalation of 250 mg/m³ (115 ppm) AN in air. Biochemical changes in the CNS have also been described in response to acute lethal and sublethal doses of AN. (*32*)

In 1952, Brieger, et al. noted "breathing difficulties" in dogs inhaling AN vapors at a concentration of 217 mg/l³ (99.8 ppm) AN in air for a few hours. (*26*) Dudley and Neal observed weak respiratory effects in rabbits and cats exposed to the same concentration, (*27*) while Dudley, Sweeney and Miller found subacute bronchopneumonia, alveolar edema and extravasation of serum and erythrocytes into the alveoli as well as focal centers of lymphocytes and polymorphonuclear leukocytes in guinea pigs, rabbits, rats and cats exposed over a period of 8 weeks to an average concentration of 0.22 mg/l (99 ppm) AN in air. (*28*) Experiments done by Knobloch in 1971 produced strong irritation of the lungs with production of lesions- hyperemia (excess blood), edema (swelling due to an accumulation of excessive fluid) and diapedeses (bleeding through intact blood vessels) in rats having single exposures to 680 ppm (1.5 mg/l) of AN for four hours. (*45*) Chronic studies done by Knobloch, et al., in 1972 showed a purulent exudate in the lungs of rats inhaling concentrations of 250 mg/m³ (115 ppm) of AN in air 5 times a week for 6 months. (*46*)

Pulmonary effects have also been produced in animals exposed to AN by other routes of administration. Benes and Cerna exposed rats and mice to AN perorally, subcutaneously and intraperitoneally and found pulmonary edema in approximately 50 percent of the animals. (*29*) Knobloch, et al. (1971), found histological changes in the lungs of rats given sublethal doses of AN subcutaneously and intraperitoneally. (*45*)

The effects of AN on the blood have also been shown by Knobloch, et al. (1971). (*45*) Ten rats given intraperitoneal doses of AN increasing every four days from 10 to 114 mg/kg over a twenty-day period and eight rats given 50 mg/kg intraperitoneally each day displayed a reduced rate of growth, leukocytosis, an increase in the proportion of neutrophilic leukocytes and a decrease in the proportion of lymphocytes in the blood.

Several authors have also considered possible cumulative toxic effects of AN exposure. Knobloch et al. (1971), describe symptoms such as decreased weight gain, inhibition of normal increase of hemoglobin levels and erythrocyte counts for young rats, leukocytosis and neutrophilia in the peripheral blood, pulmonary inflammation, kidney damage, localized fatty degeneration of the liver and pathological changes in mucosa as well as enlargement of the heart as indications of cumulative effects over a three week series of daily intraperitoneal doses of 50 mg/kg. (*45*) The authors noted a pronounced difference between the toxic effects of AN and those of inorganic cyanides. The slow development of symptoms of AN intoxication was interpreted as an indication of the possibility of a cumulative toxic effect of AN with repeated doses. In 1960, Komissarov demonstrated the accumulation of a toxic effect on the receptors of the central nerves of the small intestine. (*47*)

It is interesting to note that the systems affected in studies of acute lethal and sublethal doses of AN in both animals and humans are the same as those which are affected in long-term studies where toxic effects are manifested by the development of tumors in these systems.

SUMMARY AND EXPLANATION OF THE STANDARD

The requirements of the emergency temporary standard are those which OSHA considers essential and feasible to protect employees from the grave danger resulting from acrylonitrile exposure until a permanent standard can be promulgated in accordance with sections 6 (b) and (c) of the Act. The following section discusses the significant provisions of the emergency temporary standard for acrylonitrile and the necessity for including these provisions in the ETS.

1. *Paragraph (a).*—Scope and application. This standard applies to all occupational exposures to acrylonitrile except for the processing, use and handling of certain polyacrylonitrile products, as discussed below.

The principal activities covered by this ETS include the manufacture of acrylonitrile, the production of acrylic and modacrylic fibers, the manufacture of ABS (acrylonitrile-butadiene-styrene) and SAN (styrene-acrylonitrile) plastics and resins, and the manufacture of nitrile rubber, as well as numerous specialty polymers, plastic and polyurethane intermediates, and polymer solutions. The ETS also covers related activities, such as packaging, repackaging, storage, transportation, and disposal of acrylonitrile.

For the purposes of the ETS, the term "polyacrylonitrile", or "PAN", refers to any polymer produced from acrylonitrile alone or in combination with other monomers and additives except for materials which are exempted from the ETS, as discussed below.

Although the scope of the ETS is broad, it does not apply to all operations in which AN is merely present. Rather, it is OSHA's intent to cover in the ETS, those operations with the highest exposures, while reserving judgment for the final rule as to whether or not additional operations should be covered.

OSHA has determined that the highest potential for exposures to AN exists in operations from manufacture of AN through the polymerization process. The provisions of the ETS apply to these types of operations. Moreover, OSHA recognizes that there may be significant quantities of residual AN present in the various types of resins, plastics, and rubbers which are manufactured from the monomer. The processing of many of these products can result in significant exposures to employees through the release of the residual AN from the product. Therefore such operations are included in the ETS. However, on the basis of information presently available, fabricating and processing operations involving products made from PAN are not subject to the provisions of the ETS where the likelihood of release of significant quantities of AN is remote. The specific conditions for such an exemption are spelled out below. It is anticipated that this exemption will focus employer attention on the most serious problems first, while relieving many downstream employers from the requirements of the ETS.

Operations involving fabricated products made in whole or in part from polyacrylonitrile are exempted from the provisions of the ETS, provided they meet at least one of the conditions set forth in the exemption. Under the first condition, a processor of products fabricated from PAN will be exempted from the ETS if the employer can demonstrate, with objective data, that the product is not capable of releasing AN monomer resulting in airborne concentrations in excess of 1 ppm, under expected conditions of processing, use and handling which will cause the greatest release of AN. This determination need not be based on data generated by the processor but may, for example, be based upon information provided by the manufacturer and reasonably relied upon by the processor. This provision enables fabricators of products such as ABS plastics to avoid the burdens of compliance with the ETS, while providing incentives for the manufacturers of resins and other materials to improve their monomer-stripping techniques and minimize the amounts of residual AN in their products.

Since the range of products made from AN is so wide and varied, OSHA cannot, as a general matter, specify an "acceptable" level of residual AN for all products. There is considerable variability as to the ease with which residual AN is released from different products. OSHA believes that the most effective way of reducing the potential for release of AN in workplaces downstream from the manufacturing operation is for the manufacturer of the material to be processed to reduce the residual AN content of that material.

The second possible condition for the exemption provides that if AN-based plastics or other compounds other than latex and liquid mixtures, will not be heated or melted by the fabricator in the course of processing, that fabricator will not be subject to the provisions of the ETS. This provision recognizes that some AN-based products are not processed in such a way as to result in the release of AN into the workplace in amounts above 1 ppm, regardless of the actual residual content. Operations such as cold stamping of sheet plastic, for example, would be included in this exemption.

In addition to the release of residual AN from polymer, another potential route of AN exposure resulting from the heat processing of AN polymers is thermal decomposition. At temperatures of approximately 250° C and above, ABS resins and plastics, for example, will actually "depolymerize" into their respective component monomers, AN, butadiene, and styrene. This phenomenon is one more cause for concern when AN polymers are melted or otherwise heat-treated. It should be noted, however, that acrylic and modacrylic fibers are not subject to depolymerization and do not present the same hazard of exposure to AN from thermal decomposition, since their structure precludes their depolymerization, under similar conditions of temperature and pressure.

Because of the ease with which AN is released from latex solutions, emulsions, and other liquid mixtures, these products may not be exempted from the standard under the second condition in paragraph (a)(2), regardless of the means of processing or residual AN content. It should be noted that these materials may still be exempt under paragraph (a)(1) if it can be demonstrated that they do not have the potential under expected conditions of processing, use, and handling for the release of air concentration of AN exceeding 1 ppm. There is, therefore, a recognition of the possibility that some latex or liquid mixtures are atypical in their propensity to release AN into the workplace.

Employers whose operations qualify for exemption from the ETS under one of the conditions specified in paragraph (a) are required to maintain records of the objective data upon which they are relying for exemption, and to provide such evidence as required to justify that exemption.

It should be noted that where objective data is not available to satisfy one of the conditions for exemption, the employer is required to perform, at the very least, initial monitoring of employee exposures to AN. If the results of initial monitoring indicate employee exposures are below the action level, the employer may discontinue monitoring for those employees and is relieved of other obligations under the ETS. Thus, even if operations are not specifically exempted from the ETS, exposure levels below 1 ppm will relieve many employers from further duties under the standard, except with respect to training and labelling.

2. *Paragraph (b).—Definitions.* Because of the many and varied uses, processes, and products which involve acrylonitrile, it is necessary to define several terms as they are used in the standard.

The term "acrylonitrile" refers to the AN monomer, as a liquid or gas, wherever it may be found in the manufacturing or processing of polymers, as well as in the manufacture of the AN itself.

"Polyacrylonitrile" or "PAN", for the purposes of the standard, refers to all polymers having acrylonitrile as either a raw material or a component of the polymer chain, regardless of the percentage, except for materials exempted from the standard under paragraph (a)(2). Since the number of AN units in a polymer may vary widely from product to product, and oftentimes within the same product, OSHA believes that a broad definition is necessary to assure coverage of all potentially exposed employees.

An "action level" of 1 ppm (8-hour time-weighted average), or one-half the permissible exposure limit, is provided in the ETS. The purpose of the action level is to help to relieve the burden on employers by providing a cut-off point for required compliance activities under the standard. The broad scope of the ETS necessarily encompasses many employers whose employees are exposed to levels of AN below the permissible exposure limits. Such employers are required to perform initial monitoring to determine the extent of their employees' exposures to AN. If, on the basis of the results of the initial monitoring, an employer can demonstrate that an employee is exposed to AN below the action level, the employer may then discontinue monitoring and other compliance activities for that employee. The action level concept thus provides an objective means for an employer to determine what further actions are required for compliance with the ETS.

The statistical basis for determining the action level has been discussed in connection with several proposed OSHA health standards (see, for example, Proposed Standard for Trichloroethylene, October 20, 1975, 40 FR 49032). In brief, although all measurements on a given day may fall below the permissible exposure limit, some possibility exists that on unmeasured days the employee's actual exposure may exceed the permissible limit. Where exposure measurements are above one-half of the permissible exposure limit, i.e., the action level, the employer cannot reasonably be confident that his employees may not be overexposed. (Leidel, N. A. et al., "Exposure Measurement Action Level and Occupational Environmental Variability," DHEW, PHS, DCD, NIOSH, DLCK (August 1975)). Therefore, requiring periodic employee exposure measurements to begin at the action level provides the employer with a reasonable degree of confidence in the results of his measurement program.

3. *Paragraph (c)—Permissible exposure limits.* The ETS establishes a permissible airborne exposure limit and a prohibition on eye or skin contact with AN. The eight-hour time-weighted average is set at 2 parts acrylonitrile per million parts of air (2 ppm). A ceiling permissible exposure limit is established at 10 ppm as averaged over any 15-minute period during the workday.

The clear evidence from the animal testing performed for MCA, as well as the serious implications raised by the duPont data, indicate that for the protection of the worker, we must regard acrylonitrile as posing a carcinogenic risk to exposed employees.

OSHA policy, which is based on the best available scientific evidence and which is consistent with the policies and recommendations of nearly all public bodies which have addressed the problem of exposure to cancer-causing substances, has been and is that a substance which causes cancer in animals must be regulated as a human carcinogen, and in the absence of a demonstrated "safe" or "no effect" level for human exposure to a carcinogen, it must be assumed, as a prudent policy matter, that no safe level exists.

Acrylonitrile has long been recognized as a highly toxic material. In the past, industry has endeavored to maintain employee time-weighted averages well below the existing OSHA standard of 20 ppm, based upon its acute toxicity. Whereas the results of the MCA studies, in and of themselves, establish the need to regulate acrylonitrile as posing a carcinogenic risk, the duPont report further substantiates the absence of a demonstrated "safe" or "no effect" level for human exposure to acrylonitrile. As duPont noted in their discussion of their study, and as others have indicated in comments to the record, there is no definitive data available as to the levels of exposure to AN in the Camden plant during the period covered by the study. Many people have assumed that the levels during the start-up period of the plant (i.e., 1950–1952) were much higher than those achieved during later years of operation. Consequently, it is argued that the increased incidence of cancer demonstrated by those employees first exposed to AN during that start-up period must be attributed to those higher levels of exposure to AN. No data is presently available to indicate that any given level of exposure to AN would, in fact, be free of carcinogenic risk to exposed individuals. However, even if specific levels of exposure could be demonstrated to be associated with the incidence of cancer, this could not, in and of itself, establish a safe level for exposure to AN. While specific thresholds to various carcinogens may theoretically exist for some individuals, such thresholds may vary substantially within any given population at risk as well as with time. Furthermore, the long latency periods involved in carcinogenesis make it difficult to demonstrate that exposure to any specified quantity of a chemical carcinogen was the cause of a specific carcinogenic episode many years later (5–40 years may be required before exposure to a carcinogen might produce detectable cancers.) The Assistant Secretary cannot, therefore, set an exposure level for acrylonitrile based on any "safe" level which will eliminate the cancer hazard.

OSHA recognizes that the setting of an exposure level for acrylonitrile must, therefore, be based on a determination of a level which will immediately minimize the hazard to the greatest extent possible, within the confines of feasibility. Consequently, it is determined that a prudent assessment of all pertinent factors (i.e., the health effects, the technology available for the accurate measurement and analysis of employee exposures, and the means available for reducing employee exposures) directs the establishment of an eight-hour time weighted average permissible exposure limit to 2 ppm.

OSHA believes this level is attainable through the use of engineering and work-practice controls and respirators. In fact, several employers have already set internal goals for their employees' AN exposures of 2 ppm for an 8-hour TWA, while some are already achieving it for some operations through engineering and work practice controls alone.

In addition to limiting the 8-hour time-weighted average exposures to 2 ppm, the ETS requires that no employee be exposed to acrylonitrile in excess of 10 ppm averaged over any 15-minute period. An 8-hour TWA of 2 ppm contemplates exposures to varying concentrations of acrylonitrile during the course of the workday, with some periods of exposure above 2 ppm and corresponding periods below 2 ppm. OSHA recognizes that in many operations, relatively high excursions may necessarily be encountered by employees for short periods of time. OSHA believes that the uncertainty regarding the concentrations and duration of exposure that may increase carcinogenic risk requires that the magnitude of brief excursions be limited. On the basis of submissions to the record, and in light of the flexibility permitted by the ETS as to methods of compliance, it appears that a 15-minute ceiling of 10 ppm can feasibly be achieved. Consequently, a ceiling limit of 10 ppm averaged over any 15-minute period is established.

It has been OSHA's policy, in dealing with carcinogens to limit employee exposures to such substances to the lowest levels feasible. In keeping with

this policy, OSHA is prepared to establish a permissible exposure limit for AN in the permanent standard based on data which becomes available in the rulemaking which follows.

4. *Paragraph (d)—Notification of use.* The ETS requires employers to notify the OSHA Area Director of the location of all workplaces where acrylonitrile is present, and to describe the conditions of use and exposure and the protective measures in effect. This will permit OSHA to assemble a better profile of the industry, its capabilities, and the affected workforce, and to more effectively schedule and conduct its enforcement activities.

5. *Paragraph (e)—Exposure monitoring.* The exposure monitoring provisions require the employer to determine the exposure for each employee exposed to acrylonitrile. This does not require separate measurements for each employee. If a number of employees perform essentially the same job under the same conditions, it may be sufficient to monitor a significant fraction of such employees to thereby obtain data that are representative of the remaining employees.

Because of the nature of the hazard of exposure to AN, it is necessary that the scope of the ETS be as broad as possible to protect potentially exposed employees. However, many employers will be required only to perform initial monitoring to determine employee exposures. If the results of initial monitoring demonstrate that an employee's exposure to AN is below the action level (1 ppm), the employer may discontinue monitoring and other activities under the ETS for that employee. OSHA anticipates that this provision will greatly reduce the burden on employers, while providing them with an objective means of determining whether they must take additional steps for compliance with the ETS.

Where exposure measurements are determined to be above the permissible exposure limit, the employer must monitor monthly. Where exposure measurements are above the action level but below the PEL, monitoring need only be repeated 3 months later. "Exposure" in this connection means the airborne concentration in the employee's breathing zone, with no adjustment for the protection provided by any respirator the employee may be wearing.

The employer is also required to perform monitoring again for a particular job position if any changes in production, processes, control measures, or personnel may result in new or additional exposures to AN.

A primary concern connected with any health standard, particularly when dealing with a carcinogen, is the availability of methods of monitoring and analysis of employee exposures. It is clear from data submitted into the record that there are several off-the-shelf methods of monitoring for AN which can be implemented by employers, and that many employers are already carrying out periodic monitoring activities. Among methods which have been noted in comments submitted to the record are the use of charcoal tubes, "Poropak" polymer sampling tubes, and personal badge-type dosimeters, as well as Saran bag "grab samples," detector tubes, and fixed point monitoring systems. The ETS does not require the use of one specific monitoring method, but it does specify that whatever method is chosen must meet the criteria for sensitivity and accuracy set forth in the standard.

The ETS requires the employer to notify each employee in writing of his/her exposure within five (5) days of obtaining the results of measurement. This requirement involves a written communication to each employee so that the employee will definitely be advised of his/her exposures.

6. *Paragraph (g)—Methods of Compliance.* The ETS is flexible and permits a variety of responses to achieve the required reduction in employee exposure. The employer may use feasible engineering controls, work practices, personal protective equipment, and respirators as necessary to achieve the required degree of protection. This is substantially different from the requirement in existing OSHA permanent standards. In the permanent standards, there is a hierarchy, requiring maximal use of engineering controls, and work practices, and allowing respirators and personal protection only where all other feasible means fail to control exposure.

Some fundamental and easily implemented work practices are specifically prescribed elsewhere in the ETS: i.e., limiting access to work areas to authorized personnel; prohibiting smoking and eating in work areas where there is a potential for exposure to AN above the permissible exposure limits; and housekeeping and maintenance to reduce the amounts of potentially hazardous material that may be present in the workplace.

The ETS also requires employers to prepare a plan for the reduction of employee exposure to the lowest feasible level solely by engineering and work practice methods, within 90 days of the issuance of the ETS. While the ETS will be in effect for only a brief time, and a full public proceeding must precede the issuance of a permanent standard, OSHA believes it is necessary to begin planning now for employee protection in the long term. Because of the general irreversibility of cancer, as pointed out above, OSHA considers the early reduction of employee exposures the most significant provision in decreasing the gravity of the health risk.

7. *Paragraph (h)—Respiratory protection.* The ETS provides that where respirators are necessary to limit employee exposures to below the permissible exposure limits, the employer must provide, at no cost to the employee, and assure that the employees use respirators. The ETS contains a respirator selection table (Table 1) so the employer will provide the type of respirator which affords the proper degree of protection based on the airborne concentrations of acrylonitrile to which the employee may be exposed for protection against vapors and gases. In addition, the requirements of the table closely parallel the recommendations which have been received in the record from several major companies having considerable experience with AN.

Most companies working with AN have long been aware of the high acute toxicity of this chemical, and many have developed respiratory protection programs to deal with the acute exposure hazard. OSHA has determined, on the basis of information in the record concerning these ongoing respirator programs and recommendations as to appropriate requirements for respiratory protection, that the provisions in the ETS concerning respirators should pose no undue burden to companies in their compliance efforts, particularly in light of the ready availability of the prescribed equipment.

Since AN has no warning properties at concentrations where the use of air-purifying respirators is permitted, and because these respirators have no end-of-service indicator, the ETS requires that the cartridges or canisters be replaced at the end of each workshift in which they are first used. Special care must be taken in their use to assure proper fitting.

The ETS requires that the employee be properly trained to wear the respirator, to know why the respirator is needed, and to understand the limitations of the respirator. An understanding of the hazards involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform with 29 CFR 1910.134. This section contains the basic requirements for use, cleaning, and maintenance of respirators.

To prevent skin irritation and to minimize the discomfort of respirator use, the ETS requires that employees must be allowed to periodically wash their faces and respirator facepieces to reduce the chance of irritation from the wearing of the facepiece, and to remove any AN which may have accumulated on the facepiece. This provision is included because of the fact that AN is easily absorbed through the skin, and if it is held against the

skin for any prolonged period, it can cause irritation and blistering.

Finally, the ETS requires that respirators and other clothing and equipment required for protection from exposure to AN shall be provided at no cost to the employee. OSHA views this allocation of costs to control employee exposure to AN as being necessary to effectuate the purposes of the Act. The requirement makes explicit an agency position which has long been implicit in health standards proceedings under section 6(b) of the Act.

8. *Paragraph (j)—Protective clothing and equipment.* The ETS requires the employer to provide, at no cost to the employee, and assure that employees who are subject to skin or eye contact with AN use impermeable protective clothing or equipment such as goggles in order to minimize these hazards.

The ETS also requires that the employer clean, launder, or dispose of the required protective clothing to eliminate any potential exposure to AN that might result were the clothing to be laundered by the employee, at home or in a commercial laundry.

The ETS also requires that protective clothing be provided in a clean and dry condition at least weekly. Since skin contact with AN creates a potential for skin absorption and serious irritation and/or dermatitis, OSHA believes that the regular cleaning of contaminated work clothing plays an important part in the prevention of the exposure hazard. The ETS also requires that protective clothing and equipment be maintained and replaced by the employer as needed in order to ensure effectiveness.

In addition, since leather is known to absorb acrylonitrile readily, the protective clothing requirements of the standard will necessarily include the supplying of impermeable shoecovers to employees who may come into contact with liquid AN.

The ETS provides that the employer assure that all protective clothing is removed at the end of each workshift. In addition, whenever protective clothing becomes wet with liquid acrylonitrile the employer shall assure that the employee remove that clothing promptly to avoid skin contact. The employer is also required to assure that the clothing that is to be laundered, cleaned, or disposed of be placed in a closeable container. The purpose of requiring such a container is to prevent the contaminants on the clothing from being released into the ambient air or from being contacted by an individual handling the container.

Finally, the ETS requires employers to inform those who handle the contaminated protective clothing of the potential harmful effects of exposure to acrylonitrile. This provision is designed to make clear the need to use proper care in handling of the contaminated protective clothing.

9. *Paragraph (k)—Housekeeping.* Removal and prevention of accumulations of liquid acrylonitrile or polymer containing residual acrylonitrile on all surfaces are important requirements in the ETS and are necessary to minimize employee exposure. When AN is in liquid or vapor form, all containers or vessels are required by the ETS to be enclosed to the maximum extent feasible, and tightly covered when not in use. Appropriate measures are to be taken to assure that compliance with this provision does not result in a fire or explosion hazard from AN.

10. *Paragraph (l)—Waste disposal.* For disposal of waste scrap or equipment or debris containing AN monomer, the standard requires that such material be collected and disposed of in sealed or closed containers which prevent the dispersion of AN outside the containers. State environmental protection agencies designate appropriate landfills for the disposal of such waste.

11. *Paragraph (m)—Hygiene facilities and practices.* Section 1910.141 prescribes hygiene facilities and practices required in all workplaces for ordinary sanitary protection. In addition, it includes provisions applicable where toxic substances are handled, for appropriate facilities and practices. While § 1910.141 is a separately applicable provision in OSHA regulations, attention is directed to it by specifically referring to it in this ETS.

Change rooms as specified in § 1910.141(e) are not required where the employer can demonstrate that such facilities, if not already available, cannot be provided before the expiration of this standard. However, § 1910.141(e) requires change rooms wherever personal protective clothing is required. Personal protective clothing has been required in certain industries, such as AN monomer production under sections 1910.132 and 1910.133 for some time. The ETS does not diminish these pre-existing obligations in any way.

12. *Paragraph (n)—Medical surveillance.* The standard requires that each employer institute a medical surveillance program for all employees who are, or will be exposed to AN above the action level. OSHA believes that a medical surveillance program is necessary in dealing with the problem of employee exposure to AN; hence, pursuant to the Act, this standard has prescribed it. The authority, indeed, the requirement, to include medical surveillance in an OSHA standard is found in section 6(b)(7) of the Act:

> • • • where appropriate, any such standard promulgated under subsection 6(b) shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such employment related hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure.

The ETS requires that the medical surveillance program provide each covered employee with an opportunity for medical examination.

All examinations and procedures are required to be performed by or under the supervision of a licensed physician, and provided without cost to the employee. While the physician will usually be selected by the employer, the standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with the employee or selection by the employee. Clearly, a licensed physician is the appropriate person to be conducting a medical examination. However, certain parts of the required examination (e.g., taking of a history) do not necessarily require a physician's expertise and may be conducted by another person under the supervision of the physician. As noted above, the Congress has mandate, by reason of section 6(b)(7) of the Act, the medical examinations and procedures required by OSHA Standards be provided at no cost to the employee.

The ETS requires that the medical examination include a work history, a medical history, and a physical examination of the affected employees. The content of the examination is based upon recommendations from NIOSH, and upon procedures followed by several companies at present in their clinical evaluation of employees exposed to acrylonitrile. The purpose of these requirements is to make an initial medical assessment of each employee and to establish a baseline health condition against which future changes in an employee's health may be compared.

The medical surveillance provisions of the ETS contain specific testing requirements, with concentration on the central nervous system, respiratory system, and gastrointestinal system. Based upon the data from the duPont and MCA studies of exposure to AN, these vital sites must be considered to be possible target sites for cancer. OSHA believes that these provisions will enable the examining physician to detect, and hopefully, provide early treatment for any cancers which may develop due to past exposures to AN.

The standard requires that the employer provide the physician with certain information. This includes the following: (1) A copy of the regulation; (2) a description of the affected employee's duties as they relate to the employee's exposure; (3) the results of the employee's exposure monitoring; (4) whether any personal protective equipment has been or will be used; and (5) information from previous

medical examinations of the affected employee to the extent that they are not readily available to the physician. The purpose of making this information available to the physician is to aid in the evaluation of the employee's health in relation to his assigned duties and fitness to wear personal protective equipment when required.

The employer is required to obtain a written opinion from the examining physician containing the following information: (1) The results of the medical tests; (2) the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to AN; (3) any recommended limitations upon the employee's exposure to AN and upon the use of protective clothing and equipment, such as respirators; and (4) a statement that the employee has been informed by the physician in writing of the test results, and of any medical conditions which require further examination or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to occupational exposure. A copy of the opinion must be provided to the affected employee by the employer.

The requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may take any appropriate action. The purpose requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to medical examination by removing the fear that employers may find out information about their physical condition that has no relation to their occupational exposures.

13. *Paragraph (o). —Employee information and training.* The ETS requires the employer to provide a training program for employees exposed to AN. OSHA believes that an information and training program is essential for the protection of employees, because an employee can do much to protect himself if aware of the nature of the hazards in the workplace. To be effective, an employee education system must, at the minimum, apprise the employee of the specific hazards associated with his or her work environment. For this reason, the employer is required to inform each employee exposed to AN of the nature of the related health problems, the necessity for exposure control, and the medical and industrial hygiene monitoring programs.

The content of the training program is intended to apprise the employees of several factors: (1) The hazards to which they are exposed; (2) the action they can take to protect themselves, including avoiding exposure, using respiratory protection and taking medical examinations; (3) their role in reducing exposures; and (4) the contents of the standard. Section 6(b)(7) of the Act makes it clear that these are appropriate goals of an employee training program, and the standard, therefore, includes such provisions.

The employer is also required to provide upon request, all materials relating to the training program to the Secretary and the Director. This is intended to provide an objective check of compliance with the requirements of the standard.

14. *Paragraph (p).—Signs and labels.* OSHA believes that it is important, and indeed, section 6(b)(7) of the Act provides, that appropriate forms of warnings be used as necessary, to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions as to whether or not to work at a job under the particular working conditions in effect. Furthermore, OSHA believes that since control of health and safety problems involves the cooperation of employees, the success of a program is highly dependent upon the employee's understanding of the hazards attendant to his or her job.

In light of the serious nature of the hazard of exposure to AN, OSHA does not believe that periodic training alone will adequately apprise employees of the health hazards of AN. However, OSHA does believe that the training requirements, when coupled with the requirement to post signs and labels, will adequately do so.

The standard requires that no statement which contradicts or detracts from the effect of any sign required by this paragraph shall appear on or near any such required sign.

Due to the hazardous nature of exposure to AN, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure. For this reason, the standard includes a requirement that caution labels be affixed to all containers containing AN and AN-based polymers, except for products which meet one of the conditions of paragraph (a)(2) of the standard. This requirement is provided not only because of the hazardous nature of such exposure, but because of the necessity for both the employer and employee to know whether the product contains acrylonitrile. The labeling provisions of the standard also require the employer to assure that caution labels are affixed to products containing acrylonitrile when these products leave the employer's workplace. This requirement is designed to protect any other employees who will be handling, transporting, or using this product. Thus, manufacturers and suppliers of acrylonitrile, intermediate polymers containing acrylonitrile, ABS and SAN plastics and resins, latexes, and other products containing AN would be required to affix caution labels to their products except as noted above. The rationale for this requirement is that the manufacturer or supplier is in the best position to know if the product contains AN and therefore, to warn other employers and their employees of the dangers involved.

15. *Paragraph (g).—Recordkeeping.* Section 8(c)(3) of the Act provides for the promulgation of regulations requiring employers to maintain accurate records of employee exposures to potentially toxic or harmful physical agents which are required to be monitored or measured.

The standard provides that records must be kept to identify the employee and to accurately reflect the employee's exposure. Specifically, it must include the following information: (a) The names, social security numbers, and job classifications of the employees monitored; (b) the dates, number, duration, and results of each of the samples taken, including a description of the representative sampling procedure and equipment used to determine employee exposure where applicable; (c) the type of respiratory protective devices if any, worn by the employee; and (d) a description of the sampling and analytical methods used, and evidence of their accuracy.

The ETS also requires that the employer keep an accurate medical record for each employee who is subject to medical surveillance. Section 8(c) of the Act authorizes the promulgation of regulations requiring any employer to keep such records regarding the employer's activities relating to the Act as are necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational illnesses. OSHA believes that medical records (like exposure monitoring records) are both necessary and appropriate to both the enforcement of the standard and the development of information regarding the causes and prevention of illness.

As explained above, it is necessary to relate employees' medical conditions with their exposures in order to develop information regarding cause and prevention. Medical records are necessary and appropriate for this purpose. In addition, medical records are necessary for the proper evaluation of an individual employee's health. For all of these reasons, medical records have been required in the ETS.

The ETS requires that employees or their designated representatives be provided access to examine and copy

records of required monitoring. The purpose of this provision is to assure current employees that their exposure is being properly monitored and that they are working in a safe and healthful environment. Section 8(c)(3) of the Act explicitly provides "employees or their representatives with an opportunity to observe * * * and to have access to the records thereof."

The ETS requires that employee medical records be made available upon request for examination and copying by the affected employee or former employee, or a physician by the affected employee or former employee. The purpose of this provision is to protect the employee's health by authorizing his designated physician to have access to medical records which may be useful in the diagnosis of illness.

16. *Paragraph (r).—Observation of monitoring.* Section 8(c)(3) of the Act requires that employers provide employees and their representatives with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, the ETS contains provisions for such observation of monitoring of acrylonitrile exposures. To assure that the right to observe is meaningful, observers are entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure, and to record the results obtained.

The observer, whether an employee or a designated representative, must be provided with, and is required to use, any personal protective equipment required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

17. *Paragraph (s).—Effective date.* The ETS becomes effective upon publication. However, certain paragraphs do contain briefly delayed effective dates.

As noted earlier, some employers have already begun to carry out activities which are now to be required under the ETS, such as monitoring and medical surveillance. OSHA recognizes that the ETS might require repetition of steps that were taken only shortly before the standard became effective. To avoid such repetition, OSHA will recognize activities which are conducted within 30 days prior to the ETS as having been carried out under the ETS, if such activities were conducted in substantial compliance with the standard.

The Assistant Sectetary determines that all requirements under the new §1910.1045 are feasible. Most affected employers have already obtained, or have access to, the required personal protective equipment, respirators, and monitoring equipment for compliance with the ETS.

In fact, OSHA has been advised by Enviro Control, Inc., the contractor assessing the economic impact of an AN standard that all equipment, supplies and services expected to be necessary for compliance with the ETS are currently available from suppliers in sufficient quantities.

Several provisions require compliance as soon as possible, but no later than thirty (30) days from the effective date of the standard. This requires employers to take immediate steps to comply with these provisions, but recognizes that some employers may not be able to fully comply immediately. In any event, full compliance must be achieved by the end of the thirty-day time period. Examples of this are the medical surveillance and training sections of the standard. In addition, where specific elements of the medical examination, such as the chest x-ray, have been performed within the six (6) months prior to the effective date of this standard, those elements need not be repeated before the anniversary date. Furthermore, many of the requirements of the new standard are already required by other OSHA standards, such as the eye and face protection required under §1910.133, respiratory protection required under §1910.134, and sanitation requirements of §1910.141. Finally, any feasibility problems concerning the immediate effective date are mitigated by the following factors: (1) The fact that OSHA, in its notice in the FEDERAL REGISTER on June 29, 1977, indicated that the Agency was considering action on acrylonitrile, including the possibility of an emergency temporary standard; (2) the fact that NIOSH, on July 1, 1977, issued its "Current Intelligence Bulletin" on acrylonitrile, in which it recommended that OSHA regulate occupational exposure as a human carcinogen, and suggested work practices and other means of controlling exposures; (3) the fact that industry has been on notice of the interim results of the MCA animal studies since no later than April of 1977; (4) the fact that the duPont preliminary report on the epidemiological study of the Camden, S.C. fiber plant was available in late May of this year; (5) the fact that employers have long known of the hazardous nature of acrylonitrile, as well as of its chemical similarities to hydrogen cyanide and vinyl chloride; and (6) the fact that efforts are already underway in many companies manufacturing, processing, or using acrylonitrile to lower employee exposures through engineering and work practice changes and controls. Accordingly, employers have been apprised of the hazardous nature of acrylonitrile for a substantial period of time, and they have been aware of the need to provide protection, including respirators and other protective equipment.

18. *Paragraph (t)—Appendices.* The ETS includes three appendices: Appendix A, entitled "Substance Safety Data Sheet", Appendix B, entitled "Substance Technical Guidelines", and Appendix C, entitled "Medical Surveillance Guidelines". It should be noted that the appendices are for informational purposes only. None of the statements contained therein should be construed as imposing a mandatory requirement not in the ETS, nor should they be construed as negating any requirement which is included in the ETS.

The information in Appendix A is specifically written for the employee. Appendix B contains additional scientific and technical information to aid the employer in complying with requirements of the standard. Appendix C gives the employer a means of providing the examining physican with an explanation of the potential health effects of exposure to AN and provides information needed by the physician to evaluate the results of the medical examination. Appendix C also lists other types of examinations which are not specifically required by the ETS, but which may assist the physician in making an accurate determination of whether an employee should be exposed or should continue to be exposed to acrylonitrile.

19. *References.* The studies and other data listed below, as well as the additional material referred to in this document, represent the principal sources upon which the Emergency Temporary Standard is based. A complete set of the references is available for examination and copying at the OSHA Technical Data Center, Docket Office Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, between 8:30 am. and 4:30 pm. Monday through Friday, legal holidays excepted.

REFERENCES

1. Communication from A. C. Clark, Manufacturing Chemists Association (MCA) to Douglas Costle, Environmental Protection Agency, dated April 11, 1977.

2. Norris, J. M., "Status Report on the 2-year Study Incorporating Acrylonitrile in the Drinking Water of Rats," (an MCA-sponsored study done by Dow Chemical), dated Jan. 12, 1977.

3. Quast, J. F., et al., "Toxicity of Drinking Water Containing Acrylonitrile (AN) in Rats: Results After 12 Months," (an MCA-sponsored study done by Dow Chemical), dated March, 1977.

4. Murray, F. J., et al., "Teratologic Evaluation of Acrylonitrile Monomer Given to Rats by Gavage," (an MCA-sponsored study done by Dow Chemical, dated November 3, 1976.)

5. O'Berg, M. T., "Epidemiologic Study of Workers Exposed to Acrylonitrile: Preliminary Results," Dupont Company, May 1977.

6. Kirk-Othmer Encyclopedia of Chemical Technology, 2nd ed., A. Stauden, Executive Editor, p. 319, 1972.

7. National Institute of Occupational Safety and Health (NIOSH) memo from Roscoe M. Moore, Jr., Chief, Technological Evaluation and Review Branch, Office of Extramural Coordination and Special Projects, on the Carcinogenic potential of acrylonitrile in rats, dated May 11, 1977.

8. Manufacturing Chemists Association (MCA) Chemical Safety Data Sheet SD-31 (1974).

9. OSHA Request for Information, 42 FR 33043, and comments (numbered 1 thru 25) received in response, including supplementary information subsequently submitted by respondants.

10. Clements Associates report by Dr. Robert Squire, dated September 2, 1977, (pursuant to DOL contract No. J-9-F-7-0099 for the critical scientific evaluation of data on the carcinogenic potential an AN).

11. NIOSH Current Intelligence Bulletin: Acrylonitrile, July 1, 1977.

12. NIOSH Recommendations for a Revised Standard for Acrylonitrile (Criteria Document, Chapter 1), dated August 18, 1977.

13. NIOSH memo of Dec. 7, 1977, including transmittal of pathologists reports on reviews of MCA and duPont studies.

14. McCann, J., et al., "Detection of Carcinogens as Mutagens in the *Salmonella*/Microsome Test: Assay of 300 Chemicals," Proc. Nat. Acad. Sci. USA, Vol. 72, No. 12, pp. 5135-5139, December 1975.

15. McCann, J., et al., "Detection of Carcinogens as Mutagens in the *Salmonella*/Microsome Test: Assay of 300 Chemicals:, Discussion," Proc. Nat. Acad. Sci. USA, Vol. 73, No. 3, pp. 950-954, December 1976.

16. Simmon, V., "Interim Report: In Vitro Microbiological Mutagenicity Studies of Dow Chemical Company Compounds," Stanford Research Institute, January 1976.

Milvy, P. and Wolff, M., "Mutagenic Studies with Acrylonitrile," Mutation Research 48: 271-278, 1977.

18. DuPont Co., Haskell Laboratories Report No. 351-75, June 20, 1975, "In Vitro Microbial Studies of AN."

19. Venitt, S., Bushell, C. T. and Osborne, M., "Mutagenicity of Acrylonitrile (Cyanoethylene) in *Escherichia coli*," submitted for publication to Mutation Research, 1976.

20. Green, M. L. H. and Muriel, W. J., "Mutagen Testing Using TRP+Reversion in *Escherichia coli*," Mutation Research, 38: 3-32, 1976.

21. Green, M. L. H., Muriel, W. J. and Bridges, B. A., "Use of a Simplified Fluctuation Test to Detect Low Levels of Mutagens," Mutation Research, 38: 33-42, 1976.

22. McCann, J., Springarn, N. E., Kobori, J. and Ames, B. N., "The Detection of Carcinogens as Mutagens: Bacterial Tester Strains with R Factor Plasmids," Proc. Nat. Acad. Sci. USA 72: 979-983, 1975.

23. Brusick, D. and Mayer, J., "Yeast Mutagenicity Test," J. of Env. Health Perspectives, 6:83, 1973.

24. Solvay Company, Mutatest Pasteur—B. N. Ames, "Mutagenicity Tests Performed on the Products Supplied by the Solvay Company," June 18, 1976, Institute Pasteur (Mutatest Pasteur—B. N. Ames).

25. Svirbely, J. L. and Floyd, E. P., "Toxicologic Studies of Acrylonitrile Adiponitrile and B-B'-Oxydipropionitrile III. Chronic Studies," Presented at the AIHA/ACGIH Meeting in Detroit, Michigan, 1961.

26. Brieger, H.; Reiders, F.; Hodes, A.; "Acrylonitrile: Spectrophotometric Determination, Acute Toxicity, and Mechanism of Action," A.M.A. Arch. Indust. Hyg. & Occ. Med., 6: 128-140, 1952.

27. Dudley, H. C., and Neal, P., "Toxicology of Acrylonitrile (Vinyl Cyanide) I. A Study of Acute Toxicity," The Journal of Industrial Hygiene and Toxicology, Feb. 1942.

28. Dudley, H. C.; Sweeney, T.; and Miller, J., "Toxicology of Acrylonitrile (Vinyl Cyanide) II. Studies of Effects of Daily Inhalation," The Journal of Industrial Hygiene and Toxicology, November 1942.

29. Benes, V. and Cerna, V., "Acrylonitrile—Acute Toxicity and Mechanism of Action," J. Hyg. Epidemiol. Microbiol. Immunol. 3: 106-116, 1959.

30. Paulet, G., and Desnos, J., "Acrylonitrile: Toxicity Mechanism of Action and Therapeutic Uses," Arch. Intern. Pharmacodyn, 131: 54-83, 1961.

31. Paulet, G., Desnos, J., and Battig, J., "The Toxicity of Acrylonitrile," Archives Des Maladies Professionnelles de Medicine du Travail et de Securite Sociale 27(12): 849-856, 1966.

32. Hashimoto, K. and Kanai, R., "Studies on the Toxicology of Acrylonitrile Metabolism, Mode of Action and Therapy," Ind. Health (Kawasaki) 3: 30-46, 1965.

33. Wilson, R. H. and McCormick, W. E., "Acrylonitrile—Its Physiology and Toxicology," Industrial Medicine, 18: 243-245, June 1949.

34. Wilson, R. H. Hough, G. V., and McCormick, W. E., "Medical Problems Encountered in the Manufacture of American-Made Rubber," Industrial Medicine, 17 (6): 199-207, June 1948.

35. Wilson, R. H., "Health Hazards Encountered in the Manufacture of Synthetic Rubber," Journal of the American Medical Association 124 (11): 701-703, 1944.

36. Grunske, F., "Health Care and Occupational Medicine. Ventox and Ventox Intoxication," Dtsch. Med. Wschr. 74: 1081-1083, 1949.

37. Lorz, Hans, "Percutaneous Poisoning with Acrylonitrile," Dtsch. Med. Wschr. 75(33/34): 1087-1088, 1950.

38. Sakarai, H., & Kusumoto, M., "Epidemiologic Study of Health Impairment Among AN Workers," Rodo Kagaku 48: (5): 273—82, May 1972.

39. Orushev, T. and Popovski, P., "Clinical Symptoms in Workers Occupationally Exposed to Acrylonitrile Vapors," God. Zb. Med. Fak. Skopje 19: 187-92, 1973.

40. Shustov, V. Ya., "Clinically Observed Hematological Shifts in Workers Engaged in Acrylonitrile Production at the Saratov Chemical Combine," Gig. truda i Prof. Zabol., 7:25-29, 1968.

41. Shustov, V. Ya., and Mavrina, A., "Clinical Manifestations of Chronic Intoxication in the Production of Nitrone," Gig. truda i Prof. Zabol., 3: 27-29, 1975.

42. Zotova, L. V., "Conditions of Labor in the Production of Acrylonitrile and Their Influence on the Health of Workers," Gig. truda i Prof. Zabol., 8: 8-11, 1975.

43. Mavrina, Y. A. and Il'ina, V. A., "Change in the Immunologic Reactivity of the Bodies of Students in a Technical Trade School During Practical Exercises Involving the Production of Nitrone," Gig. Sanit. 5:109-110, 1974.

44. Tullar, Paul E., "The Pharmacology and Toxicity of Acrylonitrile and Acrylon," George Washington Univ., School of Pharmacy, 11/1/47.

45. Knobloch, K. et al., "Experimental Studies on Acute and Subacute Toxic Effects of Acrylonitrile," Med. Pracy 22(3): 257-269; 1971.

46. Knobloch, K., et al., "Chronic Toxicity of Acrylonitrile," Med. Pracy 23(3): 243-257; 1972.

47. Komissarov, I. V., "The Cumulative Properties of Acrylonitrile," Gig. truda i Prof. Zabol. 1:36-38; 1960.

V. Public Participation—Notice of Hearing

Pursuant to section 6(c)(3) of the Act, this ETS as published also serves as a proposal for a permanent rule. A more comprehensive proposed permanent standard on occupational exposure to acrylonitrile has been developed, and is published elsewhere in today's edition of the Federal Register, at page ——. The proposal contains additional provisions and some modifications of this emergency temporary standard. The comprehensive proposed permanent standard is based on the emergency standard, but contains provisions which OSHA deems to be more suited to permanent regulation of acrylonitrile. The differences between the ETS and the proposed permanent standard are discussed in detail in the preamble to the proposed permanent standard.

The emergency nature of this proceeding and the requirements of section 6(c) of the Act will necessitate expedited treatment throughout the development of the final standard on acrylonitrile. Therefore, interested parties should begin preparation of their written comments and oral presentations immediately.

Interested persons are invited to submit written data, views, and arguments with respect to this ETS and the proposed permanent standard. These comments must be postmarked on or before February 21, 1978, and submitted in quadruplicate to the Docket Officer, Docket No. H-108, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW. Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS and the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard including economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 A.M. on March 21, 1978, in the New Department of Labor Auditorium, New Department of Labor Building, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing must file in quadruplicate a notice of intention to appear, postmarked on or before February 27, 1978, addressed to Mr. Clarence Page, OSHA Division of Consumer Affairs, Docket No. H-108, Room N-3635, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210; telephone 202-523-8024.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center—Docket Office (Room S6212), telephone 202-523-7895, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by March 7, 1978, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15-minute presentation, and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearing will commence at 9:30 A.M. on Tuesday, March 21, 1978, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the emergency nature of this rulemaking proceeding, the hearing will be conducted in as expedited a manner as possible with a full development of the record and the rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any posthearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposed permanent standard will be reviewed in light of all oral and written submissions received as part of the record, and a permanent standard for occupational exposure to acrylonitrile will be issued, based upon the entire record in this proceeding.

AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR 1911, Part 1910 of Title 29, Code of Federal Regulations is hereby amended by adding a new § 1910.1045 as set forth below.

In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653), the standard in the new § 1910.1045 is determined to be more effective than the corresponding standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918, and 1926 of Title 29 Code of Federal Regulations. Therefore, these corresponding Standards are superseded by the new standard in § 1910.1045. These amendments are effective January 17, 1978.

Signed at Washington, D.C., this 12th day of January, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore amended as follows:

1. Section 1910.19 is amended by adding a new paragraph (c) as follows:

§ 1910.19 Special provisions for air contaminants.

* * * * *

(c) *Acrylonitrile.* Section 1910.1045 shall apply to the exposure of every employee to acrylonitrile in every employment and place of employment covered by § 1910.12, § 1910.13, § 1910.14, § 1910.15, or § 1910.16, in lieu of any different standard on exposure to acrylonitrile which would otherwise be applicable by virtue of any of those sections.

§ 1910.1000 [Amended].

2. Section 1910.1000 is amended by deleting the line "Acrylonitrile——— 20———45" from Table Z-1 of that section.

3. A new 1910.1045, is added, to read as follows:

§ 1910.1045 Acrylonitrile.

(a) *Scope and application.* (1) This section applies to all occupational exposures to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in paragraph (a)(2) of this section.

(2) This section does not apply to the processing, use, and handling of products fabricated from polyacrylonitrile (PAN) where objective data is reasonably relied upon as to one of the following conditions:

(i) That the material to be processed is not capable of releasing AN in airborne concentrations in excess of 1 ppm under expected conditions of processing, use, and handling which will cause the greatest possible release; or

(ii) That the material to be processed is not a latex or other liquid mixture and will not be heated or melted during the fabrication process.

(3) Where the processing, use and handling of products fabricated from PAN are exempted under this paragraph the employer shall maintain records of the objective data supporting that exemption, as provided in paragraph (q) of this section.

(b) *Definitions.* "Acrylonitrile" or "AN" means acrylonitrile monomer, chemical formula $CH_2=CHCN$.

"Action level" means a concentration of AN of 1 ppm averaged over any eight (8)-hour period.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Authorized person" means any person specifically authorized by the employer and whose duties require the person to be present in areas where AN concentrations exceed the permissible exposure limit and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring under paragraph (r) of this section.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

"Polyacrylonitrile" or "PAN" means polyacrylonitrile homopolymer or copolymer, except for materials as exempted under paragraph (a)(2) or of this section.

(c) *Permissible exposure limit.*—(1) *Inhalation.*—(i) *Time-weighted average limit (TWA).* As soon as possible, but no later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration in excess of 2 parts AN per million parts of air (2 ppm), as an 8-hour time-weighted average.

(ii) *Ceiling limit.* As soon as possible, but no later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration in excess of 10 parts AN per million parts of air (10 ppm) as averaged over any 15 minutes during the working day.

(2) *Dermal and eye exposure.* As soon as possible, but no later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN, or with PAN.

(d) *Notification of use.* Within thirty (30) days of the effective date of this section or within fifteen (15) days following the introduction of AN into the workplace, every employer who has a workplace where AN is present shall report the following information to the nearest OSHA Area Office for each such workplace: (1) The address and location of each workplace in which AN is present;

(2) A brief description of each process or operation which may result in employee exposure to AN;

(3) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(4) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN.

(e) *Exposure monitoring.*—(1) *General.* Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an 8-hour period. (For the purposes of this section, employee exposure is that which would occur if the employee were not using a respirator.)

(2) *Initial monitoring.* As soon as possible, but not later than thirty (30) days after the effective date of this section, each such employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that these determinations are representative of employee exposures.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee within three months.

(iii) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor within three months.

(4) *Additional monitoring.* Whenever there has been a production, process, control, or personnel change which may result in new or additional exposures to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and to within plus or minus 35 percent for concentrations between the action level and the permissible exposure limits.

(f) *Regulated areas.* [Reserved]

(g) *Methods of compliance.*—(1) *General.* Employee exposures to AN shall be controlled to or below the permissible exposure limits by any practicable combination of engineering controls, work practices, and personal protective devices and equipment, during the effective period of this emergency temporary standard.

NOTE.—Where engineering controls or work practices can reduce employee exposures to AN, it is recommended that they be implemented where practicable, even where they do not themselves reduce employee exposures to, or below the permissible exposure limits. Work practices which can be implemented by the employer to help reduce employee exposures to AN include limiting access to work areas to authorized personnel, prohibiting smoking and consumption of food and beverages in work areas, and establishing good maintenance and housekeeping practices, including the prompt clean-up of spills and repair of leaks.

(2) *Engineering and work-practice control plan.* (i) Within ninety (90) days of the effective date of this emergency temporary standard, the employer shall develop a written plan describing proposed means to reduce employee exposures to AN to the lowest feasible level solely by means of engineering and work-practice controls.

(ii) Written plans required under this paragraph shall be submitted upon request to the Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, Director, and any affected employee or designated representative.

(h) *Respiratory protection.*—(1) *Required use.* The employer shall assure that respirators are used where required under this section to reduce employee exposure to within the permissible exposure limits, and in emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required or permitted under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator from Table I below, and shall assure that the employee wears the respirator provided. Respirators assigned for higher concentrations may also be used for lower concentrations.

(ii) The employer shall select respirators from among those approved for use with organic vapors by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

TABLE 1.—*Respiratory protection for acrylonitrile (AN)*

Concentration of AN or condition of use	*Respirator type*
(a) Less than or equal 20 p/m.	(1) Any chemical cartridge respirator with organic vapor cartridge and half-mask; or (2) Any supplied air respirator with half-mask.
(b) Less than or equal to 100 p/m.	(1) Any organic vapor gas mask; or (2) Any supplied air respirator with full facepiece; or (3) Any self-contained breathing apparatus with full facepiece.

TABLE 1.—*Respiratory protection for acrylonitrile (AN)*—Continued

Concentration of AN or condition of use	*Respirator type*
(c) Less than or equal to 4,000 p/m.	(1) Supplied air respirator in positive pressure mode with full facepiece, helmet, hood, or suit.
(d) Less than or equal to 20,000 p/m.	(1) Supplied air respirator and auxiliary self-contained full facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentrations or fire fighting.	(1) Any self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134(b), (d), (e), and (f).

(ii) Where air-purifying respirators (chemical cartridge or canister-type gas mask) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or at the beginning of each shift, whichever occurs first. A label shall be attached to the cartridge or canister to indicate the date and time at which it is first installed on the respirator.

(iii) The employer shall allow each employee who uses a filter respirator (cartridge or canister) to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iv) Employees who wear respirators shall be allowed to wash their faces and respirator facepieces to prevent potential skin irritation associated with respirator use.

(i) *Emergency situation.* [Reserved]

(j) *Protective clothing and equipment.*—(1) *Provision and use.* Where eye or skin contact with liquid AN or with PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with §§ 1910.132 and 1910.133 to protect any area of the body which may come in contact with liquid AN or with PAN.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a workshift, and that an employee whose protective clothing becomes wet with liquid AN removes that clothing promptly to avoid skin contact with the liquid AN.

(iii) The employer shall assure that AN-contaminated protective work clothing and equipment is placed and stored in closable containers which prevent dispersion of AN outside the container.

(iv) The employer shall inform any person who launders or cleans AN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p)(3)(ii) of this section and that such label remains affixed when such containers leave the employer's workplace.

(k) *Housekeeping.*—(1) *Surface.* (i) All surfaces shall be maintained free of accumulations of liquid of AN and of PAN.

(ii) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where liquid AN and PAN are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable vacuum unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p)(3)(ii) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids.* Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(l) *Waste disposal.* AN and PAN waste, scrap, debris, bags, containers or equipment shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labelled as prescribed in paragraph (p)(3)(ii) of this section.

(m) *Hygiene facilities and practices.* Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided. Change rooms as specified in § 1910.141(c) are not required where the employer can demonstrate that such facilities, if not already available, cannot be feasibly provided before the expiration of this standard. This provision does not in any way diminish preexisting obligations to provide change rooms.

(n) *Medical surveillance.*—(1) *General.* (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Initial examinations.* Within thirty (30) days of the effective date of this section, or thereafter at the time of initial assignment, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those non-specific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or with chronic exposure to AN.

(ii) A physical examination giving particular attention to the central nervous system, gastrointestinal system, respiratory system, skin, and thyroid.

(iii) A 14" x 17" posteroanterior chest X-ray.

(iv) Further tests of the intestinal tract, including fecal occult blood and proctosigmoidoscopy, on all workers 40 years of age or older and to any other affected employees for whom, in the opinion of the physician, such testing would be appropriate.

(3) *Periodic examinations.* [Reserved]

(4) *Interim examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the

following information to the examining physician:

(i) A copy of this emergency temporary standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical test performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training.*—(1) *Training program.* (i) As soon as possible but no later than thirty (30) days from the effective date of this standard, the employer shall institute a training program for all employees where there is occupational exposure to AN and shall assure their participation in the training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section; and

(E) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.*—(1) *General.*

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER

ACRYLONITRILE (AN)

CANCER HAZARD

AUTHORIZED PERSONS ONLY

RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN except for those materials for which objective data is provided as to the conditions specified in (a)(2) of this section. The employer shall assure that these labels remain affixed when the AN, PAN and products fabricated from PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS ACRYLONITRILE (AN)

CANCER HAZARD

(q) *Recordkeeping.*—(1) *Objective data for exempted operations.* (i) where the processing, use, and handling of products fabricated from PAN are exempted pursuant to paragraph (a)(2) of this section, the employer shall establish and maintain an accurate record of all objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in paragraph (a)(2) upon which exemption is based;

(B) The source of the objective data;

(C) The results of testing and analysis of the material being processed;

(D) A description of the operation exempted; and

(E) Other data relevant to the operation, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(3) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by paragraph (n)(6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(4) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying to the affected em-

ployee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(r) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(s) *Effective date.* This section shall become effective immediately.

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligations.

APPENDIX A.—SUBSTANCE SAFETY SHEET FOR ACRYLONITRILE

I. SUBSTANCE IDENTIFICATION

A. Substance: Acrylonitrile ($CH_2=CHCN$).

B. Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acrylon; carbacryl; fumigrain; ventox.

C. Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, plastics, polyols, and other polymers having acrylonitrile as a raw or intermediate material.

D. AN is used in the manufacture of acrylic and modacrylic fibers, acrylic plastics and resins, specialty polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

E. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13–19 parts AN per million parts of air (13–19 ppm).

F. Permissible Exposure: Exposure may not exceed either:

1. 2 parts AN per million parts of air (2 ppm) averaged over the eight-hour workday; or

2. 10 parts AN per million parts of air (10 ppm) averaged over any 15-minute period in the workday.

3. In addition, skin and eye contact with liquid AN is prohibited.

II. HEALTH HAZARD DATA

A. Acrylonitrile can affect your body if you inhale the vapor (breathing) if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

B. Effects of Overexposure:

1. Short-term Exposure: Acrylonitrile causes eye irritation, nausea, vomiting, headache, sneezing, weakness, and lightheadedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

2. Long-term Exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

3. Reporting Signs and Symptoms: You should inform your employer if you develop any signs or symptoms which may be caused by exposure to acrylonitrile.

III. EMERGENCY FIRST AID PROCEDURES

A. Eye Exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

B. Skin Exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly wash the clothing before re-using. Contaminated leather shoes or other leather articles should be discarded.

C. Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

E. Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the locations of the emergency equipment before the need arises.

F. Special First Aid Procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls (ampules), each containing 0.3 ml, should be maintained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

IV. RESPIRATORS AND PROTECTIVE CLOTHING

A. Respirators: You may be required to wear a respirator for non-routine activities, in emergencies, and while your employer is in the process of reducing acrylonitrile exposures through engineering controls. If respirators are worn, they must have a Mining Enforcement and Safety Administration (MESA) or National Institute for Occupational Safety and Health (NIOSH) approval label. (Older respirators may have a Bureau of Mines approval label.) For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

Acrylonitrile does not have a detectable odor except at levels above the permissible exposure limit. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily. Reuse of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, the respirator is not working correctly. Go immediately to fresh air. If you experience difficulty breathing while wearing a respirator tell your employer.

B. Supplied-air Suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer should instruct you in their proper use and operation.

C. Protective Clothing: You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent skin contact with liquid acrylonitrile. Replace or repair impervious clothing that has developed leaks. Where protective clothing is required, your employer is required to provide clean garments to you weekly.

Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with acrylonitrile, and if they do, the clothing should be promptly removed and laundered or discarded, and the shoes should be discarded. Once acrylonitrile penetrates shoe leather, or other leather articles, the article should not be worn again.

D. Eye Protection: You must wear splashproof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

A. Acrylonitrile is a flammable liquid and its vapors can easily form explosive mixtures in air.

B. Acrylonitrile must be stored in tightly-closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong

oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

C. Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

D. You should use non-sparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

E. You must immediately remove any non-impervious clothing that becomes contaminated with acrylonitrile, and this clothing must not be reworn until the acrylonitrile is removed from the clothing.

F. Clothing wet with liquid acrylonitrile can be easily ignited. You must promptly remove this clothing, and it must not be reworn until the acrylonitrile is removed from the clothing.

G. If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

H. You must not keep food, beverages, or smoking materials in areas where acrylonitrile is handled, processed, or stored, nor are you permitted to eat or smoke in these areas.

I. If you handle acrylonitrile, you must wash your hands thoroughly with soap or mild detergent and water before eating, smoking, or using toilet facilities.

J. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

K. Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

VI. ACCESS TO INFORMATION

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile. In addition, your employer must instruct you in the proper work-practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee exposure measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

C. Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least the effective period of this emergency temporary standard.

D. Your employer is required to release exposure and medical records to your physician upon your written request.

APPENDIX B.—SUBSTANCE TECHNICAL GUIDELINES FOR ACRYLONITRILE

I. PHYSICAL AND CHEMICAL DATA

A. Substance identification:

1. Synonyms: AN; VCN; Vinyl Cyanide; Propenenitrile; Cyanoethylene; Acrylon; Carbacryl; Fumigrain; Ventox.

2. Formula: $CH_2=CHCN$.

3. Molecular Weight: 53.1.

B. Physical Data:

1. Boiling Point (760 mm Hg): 77.3° C (171° F).

2. Specific Gravity (water=1): 0.81 (at 20° C or 68° F).

3. Vapor Density (air=1 at boiling point of acrylonitrile): 1.83.

4. Melting Point: −83° F (−117° F).

5. Vapor Pressure at 20° C (68° F): 83 mm Hg.

6. Solubility in Water. Percent by weight at 20° C (68° F): 7.35.

7. Evaporation Rate (Butyl Acetate=1): 4.54.

8. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor at concentrations above the permissible exposure level. Any detectable odor of acrylonitrile may indicate overexposure.

II. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

A. Fire:

1. Flash Point: −1° C (30° F) (open cup).

2. Autoignition Temperature: 481° C (898° F).

3. Flammable limits in air, Percent by volume: Lower: 3; Upper: 17.

4. Extinguishing media: Alcohol foam, carbon dioxide, dry chemical.

5. Special fire-fighting procedures: Do not use a solid stream of water, since the stream will scatter and spread the fire. Use water spray to cool containers exposed to a fire.

6. Unusual fire and explosion hazards: Acrylonitrile is a flammable liquid. Its vapors can easily form explosive mixtures with air. All ignition sources must be controlled where acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard. Acrylonitrile vapors are heavier than air and may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which acrylonitrile is being handled.

7. For purposes of compliance with the requirements of 29 CFR 1910.106, acrylonitrile is classified as a Class IB flammable liquid. For example, 7500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

8. For purposes of compliance with 29 CFR 1910.157, acrylonitrile is classified as a Class B fire hazard.

9. For purposes of compliance with 29 CFR 1910.309, locations classified as hazardous due to the presence of acrylonitrile shall be Class I Group D.

B. Reactivity.

1. Conditions contributing to instability: Acrylonitrile will polymerize when hot, and the additional heat liberated by the polymerization may cause containers to explode. Pure AN may self-polymerize with a rapid build-up of pressure resulting in an explosion hazard. Inhibitors are added to the commercial product to prevent self-polymerization.

2. Incompatibilities: Contact with strong oxidizers (especially bromine) and strong bases may cause fires and explosions. Contact with copper, copper alloys, ammonia, and amines may start serious decomposition.

3. Hazardous decomposition products: Toxic gases and vapors (such as hydrogen cyanide, oxides of nitrogen, and carbon monoxide) may be released in a fire involving acrylonitrile and certain polymers made from acrylonitrile.

4. Special precautions: Liquid acrylonitrile will attack some forms of plastics, rubbers, and coatings. Acrylonitrile monomer should be checked at least weekly to determine inhibitor content.

III. SPILL, LEAK, AND DISPOSAL PROCEDURES

A. If acrylonitrile is spilled or leaked, the following steps should be taken:

1. Remove all ignition sources.

2. The area should be evacuated at once and re-entered only after thorough ventilation.

3. If liquid acrylonitrile, collect for reclamation or absorb in paper, vermiculite, dry sand, earth, or similar material.

4. If acrylonitrile polymer, collect spilled material in the most convenient and safe manner for reclamation or for disposal.

B. Persons not wearing protective equipment should be restricted from areas of spills or leaks until clean-up has been completed.

C. Waste disposal methods: Waste material shall be disposed of in a manner that is not hazardous to employees or to the general population. Spills of acrylonitrile and flushing of such spills shall be channeled for appropriate treatment or collection for disposal. They shall not be channeled directly into the sanitary sewer system. Containers of AN and PAN wastes shall be appropriately labelled. In selecting the method of waste disposal, applicable local, state, and federal regulations should be consulted.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Exposure above the Permissible Exposure Limit:

1. Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

2. Ceiling evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of acrylonitrile in the employee's breathing zone. A minimum of three (3) measurements should be taken on one work shift. The highest of all measurement taken is an estimate of the employee's ceiling exposure.

3. Monitoring techniques: The sampling and analysis under this section may be performed by collecting the acrylonitrile vapor on charcoal adsorption tubes or other composition adsorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as detector tubes certified by NIOSH under 42 CFR Part 84, portable direct-reading instruments, or passive dosimeters, as well as by gas and vapor adsorption tubes. The method of measurement chosen should determine the airborne levels of acrylonitrile to an accuracy of plus or minus 25 percent for concentrations of AN at or above the permissible exposure limit, and to within plus or minus 35 percent for concentrations between the action level and the permissible exposure limits.

4. Survey of operations. OSHA suggests that the employer use a direct-reading instrument, such as a portable infra-red ana-

lyzer, or equivalent points-monitoring system, to survey weekly, all operations involving liquid AN to determine points at which AN vapor or liquid may be released into the workplace. A listing of points monitored, together with levels of acrylonitrile detected, if any, shall be prepared from this survey, and the listing shall be displayed prominently in the workplace. As an alternative survey method, grab samples, utilizing vapor collection bags, with subsequent gas chromatographic analysis, can be used for this survey.

B. Since many of the duties relating to employee exposure are dependent on the results of monitoring and measuring procedures, employers shall assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

V. PROTECTIVE CLOTHING

Employees shall be provided with, and required to wear appropriate protective clothing to prevent any possibility of skin contact with liquid AN or PAN. Because acrylonitrile is absorbed through the skin, it is important to prevent skin contact with the liquid. Protective clothing shall include impermeable coveralls or similar full-body work clothing, gloves, head-coverings, and workshoes or shoe coverings, as appropriate to protect areas of the body which may come in contact liquid AN or PAN.

Employers should ascertain that the protective garments are impermeable to acrylonitrile. Non-impermeable clothing and shoes should not be allowed to become contaminated with acrylonitrile. If permeable clothing does become contaminated, it should be promptly removed and not worn again until completely free of the material. If leather footwear or other leather garments become wet from acrylonitrile, they should be replaced and not worn again, due to the ability of leather to absorb acrylonitrile and hold it against the skin. Since there is no pain associated with the blistering, it is essential that the employee be informed of this hazard so that he or she can be protected.

Any protective clothing which has developed leaks or is otherwise found to be defective should be repaired or replaced. Clean protective clothing shall be provided weekly to the employee, and whenever the clothing becomes wet with liquid AN or PAN. Employees are also required to wear splashproof safety goggles where there is any possibility of acrylonitrile contacting the eyes.

VI. HOUSEKEEPING AND HYGIENE FACILITIES

For purposes of complying with 29 CFR 1910.141, the following items should be emphasized:

A. The workplace should be kept clean, orderly, and in a sanitary condition;

B. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where liquid AN or PAN may be found;

C. Adequate washing facilities with hot and cold water should be provided, and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of acrylonitrile from the skin;

D. Change or dressing rooms with individual clothes-storage facilities should be provided to prevent the contamination of street clothes with acrylonitrile. Because of the hazardous nature of acrylonitrile, contaminated protective clothing should be stored in closed containers for cleaning or disposal.

VII. MISCELLANEOUS PRECAUTIONS

A. Store acrylonitrile in tightly-closed containers in a cool, well-ventilated area, and take the necessary precautions to avoid an explosion hazard.

B. High exposure to acrylonitrile can occur when transferring the liquid from one container to another.

C. Non-sparking tools must be used to open and close metal acrylonitrile containers. These containers must be effectively grounded and bonded prior to pouring.

D. Never store uninhibited acrylonitrile. The inhibitor content shall be determined weekly.

E. Acrylonitrile vapors are not inhibited. They may form polymers and clog vents of storage tanks.

F. Use of supplied-air suits or other impervious coverings may be necessary to prevent skin contact and provide respiratory protection from with acrylonitrile where the concentration of acrylonitrile is unknown or is above the ceiling limit. Supplied-air suits should be selected, used, and maintained under the immediate supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

G. Employers shall advise employees of all areas and operations where exposure to acrylonitrile could occur.

VIII. COMMON OPERATIONS

Common operations in which exposure to acrylonitrile is likely to occur include the following: manufacture of the acrylonitrile monomer; synthesis of acrylic fibers, ABS and SAN plastics, resins, nitrile rubber, surface coatings, specialty chemicals, use as a chemical intermediate, use as a fumigant and in the cyanoethylation of cotton.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR ACRYLONITRILE

I. ROUTE OF ENTRY

Inhalation; skin and absorption; ingestion.

II. TOXICOLOGY

Acrylonitrile vapor is an asphyxiant due to its inhibitory action on metabolic enzyme systems. Animals exposed to 75 or 100 ppm for 7 hours have shown signs of anoxia; in some animals which died at the higher level, cyanomethemoglobin was found in the blood. Two human fatalities from accidental poisoning have been reported; one was caused by inhalation of an unknown concentration of the vapor, and the other was thought to be caused by skin absorption or inhalation. Most cases of intoxication from industrial exposure have been mild, with rapid onset of eye irritation, headache, sneezing, and nausea. Weakness, lightheadedness, and vomiting may also occur. Exposure to high concentrations may produce profound weakness, asphyxia, and death. The vapor is a severe eye irritant. Prolonged skin contact with the liquid may result in absorption with systemic effects, and in the formation of large blisters after a latent period of several hours. Although there is usually little or no pain or inflammation, the affected skin resembles a second-degree thermal burn. Solutions spilled on exposed skin, or on areas covered only by a light layer of clothing, evaporate rapidly, leaving no irritation, or, at the most, mild transient redness. Repeated spills on exposed skin may result in dermatitis due to solvent effects.

Results after one year of a planned two-year animal study on the effects of exposure to acrylonitrile have indicated that rats ingesting as little as 35 ppm in their drinking water develop tumors of the central nervous system. The interim results of this study have been supported by a similar study being conducted by the same laboratory, involving exposure of rats by inhalation of acrylonitrile vapor, which has shown similar types of tumors in animals exposed to 80 ppm.

In addition, the preliminary results of an epidemiological study being performed by duPont on a cohort of workers in their Camden, South Carolina acrylic fiber plant indicate a statistically significant increase in the incidence of colon and lung cancer among employees exposed to acrylonitrile.

III. SIGNS AND SYMPTOMS OF ACUTE OVEREXPOSURE

Asphyxia and death can occur from exposure to high concentrations of acrylonitrile. Symptoms of overexposure include eye irritation, headache, sneezing, nausea and vomiting, weakness, and light-headedness. Prolonged skin contact can cause blisters on the skin, with the appearance of a second degree thermal burn, but with little or no pain. Repeated skin contact may produce scaling dermatitis.

IV. TREATMENT OF ACUTE OVEREXPOSURE

Remove employee from exposure. Immediately flush eyes with water and wash skin with soap or mild detergent and water. If AN has been swallowed and person is conscious, induce vomiting. Give artificial resuscitation if indicated. More severe cases, such as those associated with loss of consciousness, may be treated by the intravenous administration of sodium nitrite, followed by sodium thiosulfate, although this is not as effective for acrylonitrile poisoning as for inorganic cyanide poisoning.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. As noted above, exposure to acrylonitrile has been linked to increase incidence of cancers of the colon and lung in employees of the duPont acrylic fiber plant in Camden, S.C. In addition, the animal testing of acrylonitrile has resulted in the development of cancers of the central nervous system in rats exposed by either inhalation or ingestion. The physician should be aware of the findings of these studies in evaluating the health of employees exposed to acrylonitrile.

Most reported acute effects of occupational exposure to acrylonitrile are due to its ability to cause tissue anoxia and asphyxia. The effects are similar to those caused by hydrogen cyanide. Liquid acrylonitrile can be absorbed through the skin upon prolonged contact. The liquid readily penetrated leather, and will produce burns of the feet if footwear contaminated with acrylonitrile is not removed.

It is important for the physician to become familiar with the operating conditions in which exposure to acrylonitrile may occur. Those employees with skin diseases may not tolerate the wearing of whatever protective clothing may be necessary to protect them from exposure. In addition, those with chronic respiratory disease may not tolerate the wearing of negative-pressure respirators.

B. Surveillance and screening. Medical histories and laboratory examinations are required for each employee subject to exposure to acrylonitrile above the action level.

The employer must screen employees for history of certain medical conditions which might place the employee at increased risk from exposure.

1. *Central nervous system dysfunction.* Acute effects of exposure to acrylonitrile generally involve the central nervous system. Symptoms of acrylonitrile exposure include headache, nausea, dizziness, and general weakness. The animal studies cited above suggest possible carcinogenic effects of acrylonitrile on the central nervous system, since rats exposed by either inhalation or ingestion have developed similar CNS tumors.

2. *Respiratory disease.* The duPont data indicate an increased risk of lung cancer among employees exposed to acrylonitrile.

3. *Gastrointestinal disease.* The duPont data indicate an increased risk of cancer of the colon among employees exposed to acrylonitrile. In addition, the animal studies show possible tumorogenic effects on the stomachs of the rats in the ingestion study.

4. *Skin disease.* Acrylonitrile can cause skin burns when prolonged skin contact with the liquid occurs. In addition, repeated skin contact with the liquid can cause dermatitis.

5. *General.* The purpose of the medical procedures outlined in the standard is to establish a baseline for future health monitoring. Persons unusually susceptible to the effects of anoxia or those with anemia would be expected to be at increased risk. In addition to emphasis on the CNS, respiratory and gastrointestinal systems, the cardiovascular system, liver and kidney function should also be stressed.

APPENDIX REFERENCES

1. Communication from A. C. Clark, Manufacturing Chemists Association (MCA), to Douglas Costle, Environmental Protection Agency, dated April 11, 1977.

2. Norris, J. M., "Status Report on the 2-year Study Incorporating Acrylonitrile in the Drinking Water of Rats" (an MCA-sponsored study done by Dow Chemical), dated Jan. 12, 1977.

3. Quast, J. F., et al, "Toxicity of Drinking Water Containing Acrylonitrile (AN) in Rats: Results After 12 Months" (an MCA-sponsored study done by Dow Chemical), dated March 1977.

4. O'Berg, M. T., "Epidemiologic Study of Workers Exposed to Acrylonitrile: Preliminary Results," duPont Company, May 1977.

5. Kirk-Othmer Encyclopedia of Chemical Technology, 2nd ed. A. Stauden, Executive Editor, p. 319, 1972.

6. American Conference of Governmental Industrial Hygienists "Acrylonitrile," Documentation of the Threshold Limit Values for Substances in Workroom Air (3d Ed., 2d printing), Cincinnati, 1974, p. 6.

7. Manufacturing Chemists Association, Inc., Chemical Safety Data Sheet SD-31, "Acrylonitrile." Washington, D.C., 1974, pp. 16-19.

8. Brieger, H., et al., "Acrylonitrile: Spectrophotometric Determination, Acute Toxicity, and Mechanism of Action," A.M.A. Archive of Industrial Hygiene and Occupational Medicine, 6:128-140, 1952.

9. Wolfsie, J. H., "Treatment of Cyanide Poisoning in Industry," A.M.A. Archives of Industrial Hygiene and Occupational Medicine, 4:417-425, 1951.

10. Hygienic Guide Series: "Acrylonitrile," American Industrial Hygiene Association Journal, 18:78-79, 1957.

11. Patty, F. A., "Industrial Hygiene and Toxicology," Volume II: Toxicology (2d Ed., revised), Interscience Publishing Co., New York, 1963, pp. 1992, 2009-2012.

(Secs. 4, 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911).)

[FR Doc. 78-1274 Filed 1-16-78; 11:00 am]

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-108]

OCCUPATIONAL EXPOSURE TO ACRYLONITRILE (VINYL CYANIDE)

Proposed Standard and Notice of Hearing

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor

ACTION: Proposed rule and notice of hearing.

SUMMARY: The Occupational Safety and Health Administration (OSHA), in today's issue of the FEDERAL REGISTER at page —, published an Emergency Temporary Standard (ETS) regulating employee exposure to acrylonitrile (AN) (vinyl cyanide). The basis for the ETS was a determination by the Assistant Secretary, based on animal and human epidemiological data, that exposure to acrylonitrile constitutes a cancer hazard. By this notice, OSHA proposes a permanent standard for the regulation of acrylonitrile. The proposal contains three alternative sets of permissible exposure limits which are among those being considered by OSHA for the permanent standard: 2 parts AN per million parts of air (2 ppm) as an eight (8)-hour time-weighted average (TWA), with a 10 ppm ceiling limit over any 15 minute period during the workshift; 1 ppm TWA with a 5 ppm ceiling; and 0.2 ppm TWA with a 1 ppm ceiling. In addition, the proposal would prohibit eye and skin exposure. An "action level" equal to an eight (8)-hour TWA of one-half the permissible exposure limit, is included in the proposal. The proposed standard contains several conditions upon which operations involving the fabrication of products from polyacrylonitrile (PAN) may be exempted from coverage. The proposal requires, among other things, certain methods of compliance, personal protective equipment, measurement of employee exposures, training, work practices, medical surveillance, signs, labels, and recordkeeping. A permanent standard will supersede the existing ETS at the conclusion of the rulemaking.

DATES: Comments concerning the proposed permanent standard must be postmarked on or before February 21, 1978. Notices of intention to appear at the informal rulemaking hearing must be postmarked on or before February 27, 1978. Parties requesting more than 15 minutes for their presentations at the hearing, and parties submitting documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence no later than March 7, 1978. An informal public rulemaking hearing is scheduled to begin March 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Gail Kleiner, Office of Carcinogen Standards, OSHA, Third Street and Constitution Avenue NW., Room N-3654, Washington, D.C. 20210, telephone 202-523-9603.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In today's issue of the FEDERAL REGISTER, OSHA has published an Emergency Temporary Standard (ETS) regulating exposure to acrylonitrile (AN) in the workplace (29 CFR 1910.1045). The ETS, and the preamble explaining the reasons therefor, are incorporated herein in their entirety. Pursuant to sections 6(b), 6(c), and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of 29 CFR by revising 29 CFR 1910.1045 (43 FR —).

This proposed permanent standard applies to all employments in all industries covered by the Act, namely "general industry," construction and maritime.

OSHA seeks public comments, information, and evidence on all issues raised in the ETS and the proposal, including the following:

1. Whether the proposed provisions would provide adequate worker protection from all health hazards associated with AN exposure.

2. Whether .2 ppm TWA and 1 ppm ceiling are sufficiently low to adequately protect employees; whether 1 ppm TWA and 5 ppm ceiling will adequately protect employees; whether 2 ppm TWA and 10 ppm ceiling will adequately protect employees; and whether PEL's other than those expressly proposed would adequately protect employees.

3. Whether compliance with a .2 ppm TWA and 1 ppm ceiling is feasible for all affected industries; whether compliance with a 1 ppm TWA and 5 ppm ceiling is feasible for all affected industries; and whether compliance with 2 ppm TWA and 10 ppm ceiling is feasible for all affected industries.

4. Whether eye and skin contact with AN should be prohibited.

5. Whether a weekly survey of operations involving liquid AN to determine points of AN release is appropriate for the standard, and what types of equipment are available for such a survey.

6. Whether the provisions for recordkeeping, methods of compliance, medical surveillance, regulated areas, personal protective equipment, protective clothing, hygiene facilities and practices are appropriate and feasible.

7. Whether medical removal protection should be provided where, as a result of the medical surveillance program, it is determined that an employee is at an increased risk of material impairment of health from further exposure to AN.

8. Whether the provisions for training, posting and labeling are appropriate and fully apprise employees of the hazards of AN exposure.

9. Whether levels of residual AN can adequately be correlated with employee exposures; and whether quantities of residual AN can feasibly be reduced in acrylonitrile-based polymers and polymer products as a means of controlling employee exposures.

10. Whether the proposed action has any significant adverse environmental impact.

11. What is the economic impact of the proposed actions?

12. What methods are available for monitoring and determining employee exposures to AN, including passive dosimeters, and what are their sensitivities, accuracies, and possible interference?

In the development of this proposal, OSHA has received recommendations and data from the National Institute for Occupational Safety and Health, as well as numerous reference works, studies, case histories, and journal articles, some of which are included in the reference section of the ETS. The discussions in the ETS which conclude that acrylonitrile poses a cancer hazard to humans will not be repeated here.

II. PERTINENT LEGAL AUTHORITY

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards.

Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for assuring the existence of safe and healthful workplaces. The act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such a standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations

shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. (Section 6(b)(5).)

Sections 2(b) (5) and (6), 20, 21, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence, including causative factors, epidemiological studies or dose-response data, may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, standards need only be supported by the best available evidence. The legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Committee on Education and Labor, Report No. 91-1291, 91st Cong., 2d Session, p. 18 (1970). This Congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient." *Society of the Plastics Industry, Inc.* v. *Occupational Safety and Health Administration*, 509 F. 2d 1301 (2d Cir., 1975), cert. denied, 421 U.S. 992 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

> Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extend upon policy judgments and less upon purely factual judgments.

Industrial Union Department, AFL-CIO v. *Hodgson*, 499 F. 2d 467, 474 (C.A.D.C. 1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rept. No. 91-1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of the Plastics Industry, Inc.* v. *Occupational Safety and Health Administration, supra*, at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(7)). Standards may also prescribe record-keeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (Section 8(c)).

III. Summary and Explanation of Additions to or Modifications of the ETS

The requirements imposed by OSHA in the ETS are those requirements which OSHA considers to be essential and feasible to meet immediately, pending the development of a permanent standard. The preamble to the ETS explains the purpose and rationale for the provisions of the ETS. The following sections discuss provisions of the proposal which differ significantly from the ETS and which OSHA believes are more appropriate for a permanent regulation of employee exposure to acrylonitrile.

1. *Paragraph (a).—Scope and application.* The proposal, as does the ETS, includes conditions upon which an employer involved in the processing, use, or handling of materials made from polyacrylonitrile (PAN) can obtain exemption from the provisions of the standard. However, because the proposal contains several alternative sets of permissible exposure limits, as will be discussed below, the conditions for exemption in the proposal must be changed to reflect the various alternatives under consideration. The changes that are made in the exemptions as proposed are intended to assure that employees engaged in processing operations will not be exposed above the action level which applies for each alternative set of permissible exposure limits.

The first condition for exemption under the ETS applies if an employer can provide, and establish that he reasonably relied upon, objective data to demonstrate that the material to be processed is incapable of releasing AN resulting in air concentrations above 1 ppm under the expected conditions of use which will cause the greatest release. In the proposal, the level for exemption is maintained at one-half the permissible TWA exposure limit. Thus, for a permissible exposure limit of 2 ppm, materials which are incapable of releasing AN above 1 ppm would be exempted; for a permissible exposure limit of 1 ppm, the exemption level would be 0.5 ppm; and for a permissible exposure limit of 0.2 ppm, the exemption level would be 0.1 ppm. This should not be confused with the action level concept, which refers to employee exposures rather than to the capability of release above certain levels.

In addition to the two conditions for exemptions contained in the ETS, OSHA is proposing a third condition for exemption from the provisions of the permanent standard, based upon residual AN content of products fabricated from polyacrylonitrile (PAN). Except for latexes and other liquid mixtures, where the material to be processed contains less than a specified amount of residual AN by weight, the processing, handling, and use of that material would be exempted from the standard. At the present time, the proposal does not include a particular level which would qualify for the exemption. The reasons for this action are threefold. First, there is presently no data in the record upon which OSHA can reliably make any definite correlation between residual levels and resulting airborne concentrations of AN during processing. Second, OSHA notes with interest that manufacturers are presently developing more efficient methods for stripping residual monomer from their polymers. The Agency anticipates the receipt of information during the course of this rulemaking as to the techniques employed and the progress being made in improving them. As noted in the ETS, the lower the residual AN levels in PAN the lower the potential for AN exposures to employees working with the PAN in processing operations. Third, the alternative sets of permissible exposure limits in the proposal, together with their respective action levels, provide upper bounds against which any conditions for exemption from the standard must be evaluated. In brief, the lower the exposure limit being considered, the more limited will be the exemption in order to assure that employees who are exempted are not, in fact, being exposed above the action level. Because of the range of exposure limits under consideration, OSHA believes that it is prudent not to propose a specific upper bound for residual AN at this time, but that such a determination should await the submission of comments and data on residual AN levels in various PAN materials, the effectiveness of existing and prospective stripping methods, and correlations between residual AN levels and resulting air concentrations of AN various during processing operations.

The third condition for exemption in the proposal, which concerns PAN materials which are not heated or melted, is unchanged from the ETS. OSHA believes that the processing of PAN (except for latexes and other liquid mixtures) without heating or melting does not present a significant

AN exposure potential to employees.

OSHA welcomes data and information on residual AN levels in AN-based polymers and products, and their relationship to airborne concentrations of AN which may be released during operations where such polymers and products are processed. OSHA also requests data and information on the technology involved in the removal of residual monomer from PAN, and the methods used in determining the amounts of AN remaining in the polymer both before and after stripping.

In exempting operations based upon the residual AN content of materials being processed, OSHA is considering a provision which would lower the maximum allowable residual content by incremental steps during the first year or two years after the final standard becomes effective. As previously noted, the appropriate residual levels have not yet been determined, but will depend upon data and information received in the course of the rulemaking proceedings. Lowering levels of residual AN for the exemption incrementally would allow companies sufficient lead time to develop the methods necessary to reduce the residual monomer content of their products. OSHA invites comments on the steps necessary for reduction of residual AN, the amount of time believed to be necessary to develop the appropriate technology, and the appropriateness of such a phasing-in of a lower residual AN level for the purposes of determining exemptions from the standard.

2. *Paragraph (b).—Definitions.* The definition of "action level" is revised from the ETS to reflect the proposed changes in the permissible exposure limits. Three alternative action levels are provided in order to correspond to the alternative sets of permissible exposure limits as proposed. The proposed action levels are defined as eight (8)-hour time-weighted average concentrations of one-half of the respective permissible exposure limits. The rationale for the action level, the effects of including it in the standard, and the ways in which it reduces the burden of compliance for many employers are all discussed in the preamble to the ETS.

A definition of the term "emergency" is added to the proposed permanent standard. For the purposes of the standard, emergencies are occurrences such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which are likely to, or do, result in unexpected exposure to acrylonitrile or to AN vapor in excess of the ceiling limit.

3. *Paragraph (c).—Permissible exposure limits (PEL).* The permissible exposure limits set forth in the proposal are more stringent than those in the ETS. The proposal provides three alternative sets of permissible exposure limits for consideration; 2 ppm as an eight (8)-hour time-weighted average (TWA), with a ceiling limit of 10 ppm measured over any 15-minute period during the workshift (2/10 proposal); 1 ppm TWA with a 5 ppm ceiling (1/5 proposal); and 0.2 ppm TWA with a 1 ppm ceiling (0.2/1 proposal). The 2/10 proposal is clearly more stringent than the ETS, which also has exposure limits of 2/10, because of the greater flexibility available under the ETS as to methods of compliance, as discussed below.

The 2/10 exposure limits in the ETS are based upon the data currently in the record, which indicate, as noted in the ETS preamble, that these are the lowest levels attainable during the limited timeframe of the emergency standard. For the purposes of the final rule, however, OSHA believes that it is appropriate to look more closely at the development of improved technology. Standards may require improvements in existing technologies or require the development of new technology. *The Society of the Plastics Industry* v. *OSHA, supra,* at 1309. In the present situation, where efforts are already underway to improve esisting methods of controlling employee exposures to AN, the proposal anticipates the continuation of such efforts and their expansion under the permanent standard. It is in this context that OSHA is considering lowering the permissible exposure limits.

By including several sets of alternative permissible exposure limits in the proposal, OSHA acknowledges that there is much data and information yet to be gathered as to what constitutes the lowest feasible level of exposure to AN in the affected industries. It should be noted that although OSHA has expressly proposed three alternative sets of permissible exposure limits, the PEL in the final rule will be the lowest feasible levels, based upon the entire record of the proceeding, and may differ from the proposed levels.

As noted in the proposed OSHA Cancer Policy, exposures to a carcinogen should be reduced to the lowest levels feasible, since there is as yet no satisfactory scientific basis for determining a no-effect or threshold level for a carcinogen for any given population (42 FR 54148, at 54174).

OSHA welcomes any and all data available as to the appropriate permissible exposure limits for AN, the feasibility of the proposed exposure limits and any other exposure limits which should be considered by OSHA, as well as other related issues.

In making a preliminary determination as to the feasibility of the proposed standard for AN, OSHA has taken note of the proven ability of the chemical and plastics industries to develop the necessary controls and other techniques for compliance with the standard on vinyl chloride (VC) exposure (29 CFR 1910.1017). There are many similarities between VC and AN, ranging from their chemical structure through their methods of processing to the final products fabricated from them. Both are monomers, and as such, they are prized for their abilities to form useful and durable polymers, such as PVC and ABS resins, respectively.

The technology needed for the "stripping" of VC monomer from PVC resins was developed by the VC and PVC manufacturers in response to the requirements in the OSHA standards. It is anticipated that similar technological development will be necessary in some cases to achieve the same degree of reduction of AN monomer levels in AN-based resins, latexes, and other polymers. Similarly, new methods of reduction of airborne VC levels in manufacturing and polymerization operations have been forthcoming in the past several years, as have new and more sophisticated techniques of measuring those levels in the workplace. It may well become necessary for these types of innovations to be developed with regard to AN, as well, in the future.

OSHA has noted the capability of the chemical and plastics industries to adapt their operations and make necessary changes to reduce employee exposures to toxic substances and carcinogens. Many of the breakthroughs and improvements brought about in the context of vinyl chloride are relevant to the control of employee exposures to acrylonitrile. Where there are areas in which the control of VC and AN differ, OSHA is confident that the affected companies will continue to demonstrate their innovative abilities to meet the challenge. With regard to vinyl chloride, industry has shown that many problems which were formerly looked upon as unsolvable have now been solved satisfactorily. Although it cannot be said that the control of AN exposures in the workplace will be a simple matter, OSHA is confident that, based upon recent performance by the affected industries, it can be accomplished.

4. *Paragraph (e).—Exposure monitoring. Weekly survey of operations involving liquid AN.* OSHA recognizes that the use of instruments to detect the presence of AN at levels below the permissible exposure limits can be of great benefit in determining potential sources of employee exposure. In addition, it may also assist in pinpointing trouble spots, such as leaks and defective seals, before they become more serious problems. The data submitted into the record to date indicate that there are several methods available, such as the use of infra-red gas analyzers and multi-point sequential sam-

pling systems, which are capable of detecting AN at levels in the range of 0.2 to 0.4 ppm or below. Although there is clearly a difference between detecting AN and measuring employee exposures to AN, OSHA believes that a system for the early detection of fugitive emissions of AN can be of great value in controlling emissions and limiting potential exposures. Therefore, a weekly survey of operations involving liquid AN has been included in the proposed permanent standard.

OSHA has determined that a weekly survey would be of greatest value in operations where the monomer is produced, used, or processed, since it is in such operations that a leak or spill is most likely to occur and to cause the greatest potential for employee exposure to AN above the permissible exposure limits. The proposal would require the employer to survey, on a weekly basis, using an infra-red detector or similar AN detection system, areas of operations where liquid AN is manufactured, used, or processed.

The weekly survey requirement is flexible as to the type of equipment required for measurement of levels of AN. Employers are permitted to use such methods as detector tubes, Saran bag "grab samples", and portable infra-red gas analyzers. In addition, OSHA has learned that several companies either have installed, or are presently in the process of installing, fixed point area monitoring systems with sequential sampling, similar to those developed for detecting vinyl chloride. Such systems would be ideal for developing the kind of data to be obtained from the weekly survey, and are encouraged, but not specifically required, by the proposal. The reasons for flexibility as to the methods used in the weekly survey are twofold. First, OSHA emphasizes that the personal monitoring required by the proposal is the primary method of determining employee exposures. Detailed requirements are included in the standard as to the required precision and accuracy of the methods for determining employee exposure. The weekly survey, on the other hand, is a means of detecting AN levels before they become significant parts of an employee's exposure.

Second, the weekly survey should not be overly time-consuming. By allowing the employer the widest latitude in selecting a method that is most efficient for his/her operations, the provision most adequately assures that the survey will be carried out as required.

5. *Paragraph (f).—Regulated areas.* Where AN concentrations are in excess of permissible exposure limits, the employer must establish a regulated area. The purpose of establishing regulated areas is to limit AN exposure to as few employees as possible. The burden on the employer is expected to be minimal, since the provisions of the proposed permanent standard require the employer merely to identify and control access to regulated areas and to notify the applicable OSHA Area Office of their existence and the conditions therein.

6. *Paragraph (g).—Methods of Compliance.* The proposed standard would require the employer to institute engineering and work practice controls to reduce employee exposures to or below the permissible limits. In situations where engineeting and work practice controls that can be instituted immediately will not reduce exposures to the permissible exposure limits, these controls must nonetheless be used to reduce exposures to the lowest feasible level and be supplemented by the use of respirators. In addition, a compliance program to reduce exposures to within the permissible exposure limits solely by means of engineering and work practice controls must be developed and implemented. Written plans for this program must be developed and be furnished upon request for examination and copying to representatives of the Assistant Secretary, representatives of the Director, or affected employees. These plans must be reviewed and updated periodically to reflect the current status of the program.

Engineering controls are the preferred means of compliance because they reduce exposure hazards in the workplace environment by removing the airborne contaminant. Engineering controls may include the installation of local exhaust ventilation, modification of a process so as to reduce emission of the contaminant into the workplace, or substitution of another substance for acrylonitrile. Work practices are often necessary for the effective operation of engineering controls, and they are also a preferred means of controlling exposures.

Respirators are the least satisfactory means of control because of certain difficulties inherent in their use. Respirators are capable of providing good protection only if they are properly selected for the concentrations of airborne contaminants present, properly fitted to the employee, properly worn by the employee, and replaced when they have ceased to provide protection. While it is theoretically possible for all of these conditions to be met, it is more often the case that they are not. As a consequence, the protection of employees by respirators is not always effective.

OSHA recognizes that there are certain activities, often involving certain maintenance operations, in which the use of engineering controls to control exposures will not be feasible, regardless of the permissible exposure limits in the standard. Where the employer can show that the engineering control of such operations is not feasible, respirators shall be permitted as a primary means of control of AN exposures.

7. *Paragraph (h)—Respiratory protection.* The provisions for respirator protection in the proposal differ from those of the ETS in three ways. First, the limits for the appropriate use of the various respirators, as specfied in Table I, are adjusted to reflect the alternative permissible exposure limits as provided in the proposal. The conditions of AN exposure and respirator usage are expressed in the proposal as multiples of the permissible exposure limits instead of in terms of ppm of AN, in order to simplify the use of the table for each of the alternative sets of exposure limits. Second, the proposal includes a specific limitation on the use of respirators to comply with the permissible exposure limits. Such a limitation is consistent with the proposed hierarchy of exposure controls provided under paragraph (g) of the proposal. Third, the proposal requires that air-purifying respirators, where permitted by the proposal and the respirator table, be approved by NIOSH for use with AN, rather than generally approved for use with organic vapors, as provided in the ETS. Such specific approval will not be given by NIOSH unless the cartridges or canisters have an end-of-service-life indicator, since AN does not have a low enough odor threshold to permit detection of low level breakthrough by smell. OSHA requests information as to whether there are cartridges or canisters presently available specifically for AN which have such end-of-service-life indicators. In addition, OSHA is considering a provision similar to that in the ETS, permitting the use of cartridges or canisters if replaced before the end of their service life (where indicators exist), or at the beginning of each shift, whichever comes first. OSHA welcomes comments and testimony on the selection of appropriate respiratory protection, the proper limitations for the use of air-purifying respirators with AN, and other factors relevant to an effective respiratory protection program. In addition, OSHA also welcomes comments and testimony as to whether a quantitative fit test should be required wherever canister or cartridge respirators are to be used.

8. *Paragraph (n)—Medical surveillance.* The medical surveillance provisions of the proposed standard are substantially identical with those of the ETS. Both sets of provisions give particular emphasis to the central nervous system, the respiratory system and lower digestive tract. These represent the areas which the relevant animal studies and human epidemiological study indicate to be the major target sites for production of malignancy as a result of AN exposure. The

physical examination required in the proposed standard will be required annually for all AN-exposed employees. OSHA requests additional information on tests and analyses which may be helpful in the early diagnosis of cancer of the aforementioned systems of the body.

9. *Medical removal protection.* OSHA is seeking public input regarding the appropriateness of including a provision in the final AN standard which would protect employee participation in the medical surveillance program. This provision would extend economic protection to employees who participate in the medical surveillance program and are removed or transferred from their jobs to protect them from material impairment of health. The purpose of this provision would be to encourage employees to participate in the medical surveillance program, which is an important part of OSHA's multifaceted prophylactic approach to occupational health.

The medical surveillance provision of the proposed standard contemplates that employers will limit the exposure of employees who are at increased risk of material impairment of health. Improved engineering controls, work practices, hygiene practices, and respirators must be utilized to reduce employee exposures so that the employee is no longer at increased risk of material impairment of his or her health.

OSHA's primary goal is to assure that no employee suffers material impairment of health or functional capacity. The Agency does not favor transfer or removal as an alternative to controlling the level of a toxic substance in the workplace environment. Moreover, once full compliance with the permissible exposure limits is achieved by engineering controls and work practices, the need to transfer or remove employees from exposure to AN should arise infrequently.

However, it appears that limitation of exposure by transfer or removal of the employees from occupational exposure may, on occasion, be necessary to effectively protect employees from material impairment of health.

Therefore, OSHA is seeking public input as to whether the medical surveillance provisions of the AN standard should include a requirement for medical removal protection and the nature of such protection. This requirement could maintain the rate of pay, seniority, and other rights of an employee for the time period, or a portion thereof, that the employee is transferred or removed from his or her job as a result of an increased health risk from exposure to AN.

A more complete discussion of the various issues and options available in this proceeding regarding medical removal protection may be found in the OSHA proposed standard on occupational exposure to lead, published at 42 FR 46547 (September 16, 1977).

10. *Paragraph (g).—Recordkeeping.* The proposed standard requires the employer to keep written records of employee exposure measurements and medical examinations. Symptoms of cancer may not appear for many years after exposure to AN. Thus, records of exposure measurement and medical examinations should be retained for a definite period of years even if the employee ceases to work. For this reason, the recordkeeping provisions of the proposal require the employer to retain these records for at least 40 years, or for the duration of employment plus 20 years, whichever is longer.

V. Technological Feasibility Assessment and Economic Impact Statement

In accordance with Executive Order 11949 (42 FR 1017), OSHA has contracted for a technological feasibility assessment and economic impact statement from Enviro Control, Inc., (ECI), of Rockville, Md. ECI is presently evaluating the economic impact of the proposed standard, with emphasis on the three alternative sets of permissible exposure limits set forth in paragraph (e) of the proposal.

When the final document has been prepared and reviewed, the Assistant Secretary will certify that the economic impact of the proposed standard on acrylonitrile has been evaluated in accordance with the Executive Order. When the document is available for inspection and copying, a notice of availability will be published in the Federal Register. OSHA invites comments on the technological feasibility and economic impact of the proposed standard.

VI. Environmental Impact Assessment

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) requires, among other things, that Federal agencies assess their proposed major actions, including proposed rulemaking, to determine whether a significant impact on the quality of the human environment may result. Further, pursuant to Department of Labor regulations [29 CFR Part 1999.3(a)], whenever OSHA is considering a major Federal action, the Director of the Office of Standards shall determine whether an environmental impact statement is required. If the Director determines that such an impact statement is not required, 29 CFR Part 1999.3(e) states that "he shall set forth in writing the decision and the reasons for it, which shall be available for public inspection." In keeping with these regulations, it has been determined that the proposed standard for occupational exposure to acrylonitrile (AN) does not require the preparation of an environmental impact statement because available evidence does not indicate that it will have any adverse environmental impact for the reasons set forth below:

1. The proposed standard is designed to control employees' exposures to AN within their work facilities, and it is this population which is expected to experience any health or environmental benefit, as outlined in earlier sections of this proposal.

2. Available evidence does not indicate the potential for significant environmental or health effects outside of the workplace environment resulting from this proposal. According to a source assessment of air emissions from acrylonitrile manufacturing operations, prepared by EPA, [Source Assessment: Acrylonitrole Manufacture (Air Emissions), EPA 800/2-76-032, March 1977], current uncontrolled levels of acrylonitrile emissions from monomer manufacturing plants are less than 0.1 ppm (maximum ground level concentration). No data currently exist which relate AN emissions from these manufacturing operations to health problems external to the workplace.

3. Since it is economically desirable to recycle recoverable AN monomer, there is every reason to believe that emissions will decrease (especially if reductions of employee exposure are achieved through increased monomer stripping), as the employer will be motivated to control and recycle any residuals. Reduction of the emission of any nonnaturally-occurring chemical may be considered a beneficial environmental impact. As discussed in paragraph No. 2 above, however, current emissions of AN are already so low that any further reduction will not result in any incremental benefit to the environment external to the workplace.

4. There is no evidence to indicate that the proposed standard will result in any significant change in water quality, solid waste disposal or land use external to the workplace.

5. Potential energy increases and economic impacts of this proposal will be discussed in the Technological Feasibility and Economic Impact Statement, prepared for OSHA by Enviro Control, Inc.

On the basis of the assessment presented above, and the discussion of the proposal presented earlier in this notice, OSHA has determined that the proposed regulation will not significantly adversely affect the quality of the human environment, and that preparation of an environmental impact statement is not required. If, during the period for public comment on this proposal, however, data are received which indicate that significant and quantifiable environmental impacts are likely to occur as a result of this proposal, OSHA reserves the right to reconsider its decision and to proceed with preparation of an environmental impact statement.

Written comments and information on the projected technological, economic, and environmental impacts of the proposed standard on acrylonitrile are solicited from any interested persons or groups during the period for

written comment submissions listed below in the notice.

VII. PUBLIC PARTICIPATION—NOTICE OF HEARING

Interested persons are invited to submit written data, views, and arguments with respect to the ETS and this proposed permanent standard. These comments must be postmarked on or before February 21, 1978, and submitted in quadruplicate to the Docket Officer, Docket No. H-108, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room S6212, Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS, the proposal, or both, which are addressed, and the positions taken with respect to each issue.

The data, view, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on March 21, 1978, in the Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

Notices of Intention to Appear. All persons desiring to participate at the hearing must file, in quadruplicate, a notice of intention to appear, postmarked on or before February 27, 1978 with the OSHA Division of Consumer Affairs, Docket No. H-108, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room N-3633, Washington, D.C. 20210, telephone 202-523-8024. The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center—Docket Office (Room S6212), telephone 202-523-7894, must contain the following information:

1. The name, address, and telephone number of each person to appear;

2. The capacity in which the person will appear;

3. The approximate amount of time requested for the presentation;

4. The specific issues that will be addressed;

5. A detailed statement of the position that will be taken with respect to each issue addressed; and

6. Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

Filing of Testimony and Evidence Before Hearing. Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by March 7, 1978, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the requirement to provide the complete text of testimony and documentary evidence may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

Conduct of Hearings. The hearing will commence at 9:30 a.m. on Tuesday, March 21, 1978, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the ETS and its emergency nature, the hearing will be conducted in as expedited a manner as possible, consistent with a full development of the record and rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any post hearing comment period that might be provided, The Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

VIII. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Consitiution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 4(b), 6(b), 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 1599; 29 U.S.C. 653, 655, 657), the Secretary of Labor's Order No. 8-76 (41FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29 of the Code of Federal Regulations by amending section 1910.1045 as set forth below. In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653), OSHA is of the view that the proposed standard is more effective than the corresponding standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918 and 1926 of Title 29 of the Code of Federal Regulations. Therefore, these corresponding standards would also be superseded by the new proposed standard.

Signed at Washington, D.C. this 12th day of January, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore proposed to be amended by revising § 1910.1045 to read as follows:

§ 1910.1045 Acrylonitrile.

(a) *Scope and application.* (1) This section applies to all occupational exposure to acrylonitrile (AN), Chemical Absracts Service Registry No. 000107131, except as provided in paragraph (a)(2) of this section.

(2) This section does not apply to the processing, use, and handling of products fabricated from polyacrylonitrile (PAN) where objective data is reasonably relied upon as to one of the following conditions:

(i) That the material to be processed is not capable of releasing AN resulting in airborne concentrations in excess of [1.0 ppm; or 0.5 ppm; or 0.1 ppm], under the expected conditions of processing, use and handling which will cause the greatest possible release; or

(ii) That the material to be processed is not a latex or other liquid mixture and does not contain more than (*XX*) ppm by weight, residual AN; or

(iii) That the material to be processed is not a latex or other liquid mixture and will not be heated or melted during the fabrication process.

Where the processing, use, and handling of products fabricated from PAN are exempted under this paragraph, the employer shall maintain records of the objective data supporting that exemption, as provided in paragraph (q) of this section.

(b) *Definitions:* "Acrylonitrile" or "AN" means acrylonitrile monomer, chemical formula $CH_2=CHCN$.

"Action level" means a concentration of AN of [1 ppm; or 0.5 ppm; or 0.1 ppm] averaged over any eight (8)-hour period

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or

any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under pargraph (r) of this section.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which is likely to, or does, result in unexpected exposure to AN in excess of the ceiling limit.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

"Polyacrylonitrile" or "PAN" means polyacrylonitrile homopolymers or copolymers, except for materials as exempted under paragraph (a)(2) of this section.

(c) *Permissible exposure limits.*—(1) *Inhalation.*—(i) *Time-weighted average limit (TWA).* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of [two (2) parts; or one (1) part; or two-tenths (0.2) part] acrylonitrile per million parts of air [2 ppm; or 1 ppm; or 0.2 ppm], as an eight (8)-hour time-weighted average.

(ii) *Ceiling limit.* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of [10 ppm; or 5 ppm; or 1 ppm] as averaged over any fifteen (15)-minute period during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN or PAN.

(d) *Notification of use and emergencies.*—(1) *Use.* Within ten (10) days of the effective date of this standard, or within fifteen (15) days following the introduction of AN into the workplace, every employer shall report, unless he has done so pursuant to the emergency temporary standard, the following information to the OSHA Area Office for each such workplace:

(i) The address and location of each workplace in which AN is present;

(ii) A brief description of each process of operation which may result in employee exposure to AN;

(iii) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN. Whenever there has been a significant change in the information required by this paragraph, the employer shall promptly amend such information previously provided to the OSHA Area Office.

(2) *Emergencies and remedial action.* Emergencies, and the facts obtainable at that time, shall be reported within twenty-four (24) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(e) *Exposure monitoring.*—(1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight (8)-hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that the determinations are representative of employee exposures.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee at least quarterly.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(4) *Additional monitoring.* Whenever there has been a production, process, control or personnel change which may result in new or additional exposures to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 35 percent for concentrations of AN between the action level and the permissible exposure limits.

(7) *Weekly survey of operations involving liquid AN.* In addition to monitoring of employee exposures to AN as otherwise required by this paragraph, the employer shall survey areas of operations involving liquid AN at least weekly to detect points where AN liquid or vapor are being released into the workplace. The survey shall employ an infra-red gas analyzer calibrated for AN, a multipoint gas chromatographic monitor, or comparable system for detection of AN. A listing of levels detected and areas of AN release, as determined from the survey, shall be posted prominently in the workplace, and shall remain posted until the next survey is completed.

(f) *Regulated areas.* (1) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(2) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(3) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto.

(4) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied, (except that these activities may be conducted in the lunchrooms, change rooms and showers required under paragraphs (m)(1)-(m)(3) of this section).

(g) *Methods of compliance.*—(1) *Engineering and work practice controls.* (i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to AN, to or below the permissi-

ble exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

(2) *Compliance program.* (i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g)(1) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(iii) Written plans for such a program shall be submitted upon request to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or representative.

(iv) The plans required by this paragraph shall be revised and updated at least every (6) six months to reflect the current status of the program.

(h) *Respiratory protection*—(1) *General.* The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposure to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate type of respirator from Table I below and shall assure that the employee wears the respirator provided.

TABLE I.—*Respiratory protection for acrylonitrile (AN)*

Concentration of AN or condition of use	*Respirator type*
(a) Less than or equal to 10× permissible exposure limits.	(1) Any chemical cartridge respirator with organic vapor cartridge(s) and half-mask; or (2) Any supplied air respirator with half-mask.
(b) Less than or equal to 50× permissible. exposure limits	(1) Any organic vapor gas mask; or (2) Any supplied air respirator with full facepiece; or (3) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 2,000× permissible exposure limits.	(1) Supplied air respirator in positive pressure mode with full facepiece, helmet, hood, or suit.
(d) Less than or equal to 10,000× permissible exposure limits.	(1) Supplied air respirator and auxiliary self-contained full facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentration of firefighting.	(1) Any self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(ii) The employer shall select respirators from those approved for use with AN by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f).

(ii) Where air-purifying respirators (chemical cartridge or canister-type gas mask) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or at the beginning of each shift, whichever occurs first. A label shall be attached to the cartridge or canister to indicate the date and time at which it is first installed on the respirator.

(iii) The employer shall allow each employee who uses a filter respirator (cartridge or canister) to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of the filter elements necessary for this purpose.

(iv) Employees who wear respirators shall be allowed to wash their faces and respirator facepieces to prevent potential skin irritation associated with respirator use.

(i) *Emergency situations*—(1) *Written plans.* (i) A written plan for emergency situations shall be developed for each workplace where AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(2) *Alerting employees*—(i) *Alarms.* Where there is the possibility of employee exposure to AN in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) *Evacuation.* Employees not engaged in correcting the emergency shall be restricted from the area and shall not be permitted to return until the emergency is abated.

(j) *Protective clothing and equipment*—(1) *Provision and use.* Where eye or skin contact with liquid AN or PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with §§ 1910.132 and 1910.133 to protect any area of the body which may come in contact with liquid AN or PAN.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph, as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a work shift and that an employee whose protective clothing becomes wet with liquid AN or PAN removes that clothing promptly to avoid skin contact with the liquid AN or PAN. Protective clothing shall be removed only in change rooms as required by paragraph (n)(1) of this section.

(iii) The employer shall assure that AN- or PAN-contaminated protective clothing and equipment is placed and stored in closable containers which prevent dispersion of the AN or PAN outside the container.

(iv) The employer shall assure that no employee removes AN- or PAN-contaminated protective equipment or

clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(v) The employer shall inform any person who launders or cleans AN- or PAN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(vi) The employer shall assure that containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p)(3)(ii) of this section, and that such labels remain affixed when such containers leave the employer's workplace.

(k) *Housekeeping*—(1) *Surfaces.* (i) All surfaces shall be maintained free of accumulations of liquid AN and of PAN.

(ii) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where liquid AN and PAN are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p)(3)(ii) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids.* Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(l) *Waste disposal.* AN and PAN waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labeled as prescribed in paragraph (p)(3)(ii) of this section.

(m) *Hygiene facilities and practices.* Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to paragraph (k) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided. In addition, the following facilities or requirements are mandated.

(1) *Change rooms.* The employer shall provide clean change rooms in accordance with 29 CFR 1910.141(e).

(2) *Showers.* (i) The employer shall provide shower facilities in accordance with 29 CFR 1910.141(d)(3).

(ii) In addition, the employer shall also assure that employees exposed to liquid AN and PAN shower at the end of the work shift.

(3) *Lunchrooms.* (i) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to AN above the permissible exposure limits.

(ii) In addition, the employer shall also assure that employees exposed to AN above the permissible exposure limits wash their hands and face prior to eating.

(n) *Medical Surveillance.*—(1) *General.* (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Initial examinations.* At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical, history with special attention to skin, respiratory, and gastrointestinal systems, and those non-specific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or chronic exposure to AN.

(ii) A physical examination giving particular attention to central nervous system, gastrointestinal system, respiratory system, skin and thyroid.

(iii) A 14" x 17" posteroanterior chest x-ray.

(iv) Further tests of the intestinal tract, including fecal occult blood and proctosigmoidoscopy, on all workers 40 years of age or older, and to any other affected employees for whom, in the opinion of the physician, such testing would be appropriate.

(3) *Periodic examinations.* (i) The employer shall provide examinations specified in this paragraph at least annually for all employees specified in paragraph (n)(1) of this section.

(ii) If an employee has not had the examinations prescribed in paragraph (n)(2) of this section within 6 months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(4) *Additional examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall intruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training.*—(1) *Training program.* (i) The employer shall institute a training program for all employees where there is occupational exposure to AN and

shall assure their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section:

(E) The emergency procedures developed, as required by paragraph (i) of this section; and

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

(G) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.*—(1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER

ACRYLONITRILE (AN)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN, except for those materials for which objective data is provided as to the conditions specified in paragraph (a) (2) of this section. The employer shall assure that the labels remain affixed when the AN or PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS ACRYLONITRILE (AN)

CANCER HAZARD

(q) *Recordkeeping.*—(1) *Objective data for exempted operations.* (i) Where the processing, use, and handling of products fabricated from PAN are exempted pursuant to paragraph (a)(2) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in paragraph (a)(2) upon which exemption is based;

(B) The source of the objective data;

(C) The results of testing and analysis of the material being processed;

(D) A description of the operation exempted; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(3) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by paragraph (n) (6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for at least forty (40) years, or for the duration of employment plus twenty (20) years, whichever is longer.

(4) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(5) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the Director.

(r) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(s) *Effective date.* This section shall become effective thirty (30) days following publication.

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

APPENDIX A.—SUBSTANCE SAFETY DATA SHEET FOR ACRYLONITRILE

I. SUBSTANCE IDENTIFICATION

A. Substance: Acrylonitrile ($CH_2=CHCN$).

B. Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acrylon; carbacryl; fumigrain; ventox.

C. Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, plastics, polyols, and other polymers having acrylonitrile as a raw or intermediate material.

D. AN is used in the manufacture of acrylic and modacrylic fibers, acrylic plastics and resins, specialty polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

E. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13–19 parts AN per million parts of air (13–19 ppm).

F. Permissible Exposure: Exposure may not exceed either:

1. [*Two parts;* or *one part;* or *two-tenths part*] AN per million parts of air [*2 ppm;* or *1 ppm,* or *0.2 ppm*] averaged over the eight-hour workday; or

2. [*Ten parts;* or *five parts;* or *one part*] AN per million parts of air [*10 ppm;* or *5 ppm;* or *1 ppm*] averaged over any 15-minute period in the workday.

3. In addition, skin and eye contact with liquid AN is prohibited.

II. HEALTH HAZARD DATA

A. Acrylonitrile can affect your body if you inhale the vapor (breathing), if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

B. Effects of Overexposure:

1. Short-term Exposure: Acrylonitrile can cause eye irritation, nausea, vomiting, headache, sneezing, weakness, and light-headedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

2. Long-term Exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

3. Reporting Signs and Symptoms: You should inform your employer if you develop any signs or symptoms and suspect they are caused by exposure to acrylonitrile.

III. EMERGENCY FIRST AID PROCEDURES

A. Eye Exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

B. Skin Exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly was the clothing before re-using. Contaminated leather shoes or other leather articles should be discarded.

C. Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

E. Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

F. Special First Aid Procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls, each containing 0.3 ml, should be maintained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

IV. RESPIRATORS AND PROTECTIVE CLOTHING

A. Respirators: You may be required to wear a respirator for non-routine activities, in emergencies, and while your employer is in the process of reducing acrylonitrile exposures through engineering controls. If respirators are worn, they must have a Mining Enforcement and Safety Administration (MESA) or National Institute for Occupational Safety and Health (NIOSH) approval label. (Older respirators may have a Bureau of Mines approval label.) For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

Acrylonitrile does not have a detectable odor except at levels above the permissible exposure limit. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily or before the end-of-service-life, whichever comes first. Re-use of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. Supplied-air Suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer must instruct you in their proper use and operation.

C. Replace or repair impervious clothing that has developed leaks. Protective Clothing: You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent skin contact with liquid acrylonitrile. Where protective clothing is required, your employer is required to provide clean garments to you weekly.

Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with acrylonitrile, and if they do, the clothing should be promptly removed and laundered or discarded and placed in appropriately labeled containers and the shoes should be discarded. Once acrylonitrile penetrates shoe leather or other leather articles, they should not be worn again.

D. Eye Protection: You must wear splash-proof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

A. Acrylonitrile is a flammable liquid and its vapors can easily form explosive mixtures in air.

B. Acrylonitrile must be stored in tightly-closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

C. Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

D. You should use non-sparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

E. You must immediately remove any non-impervious clothing that becomes contaminated with acrylonitrile, and this clothing must not be reworn until the acrylonitrile is removed from the clothing.

F. Clothing wet with liquid acrylonitrile can be easily ignited. You must promptly remove this clothing, and it must not be reworn until the acrylonitrile is removed from the clothing.

G. If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

H. You must not keep food, beverages, or smoking materials in areas where acrylonitrile is handled, processed, or stored, nor are you permitted to eat or smoke in these areas.

I. If you handle acrylonitrile, you must wash your hands thoroughly with soap or

mild detergent and water before eating, smoking, or using toilet facilities.

J. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

K. Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

VI. ACCESS TO INFORMATION

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile. In addition, your employer must instruct you in the proper work-practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

C. Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least forty (40) years or for the period of your employment plus twenty (20) years. whichever is longer.

D. Your employer is required to release exposure and medical records to your physician upon your written request.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES FOR ACRYLONITRILE

I. PHYSICAL AND CHEMICAL DATA

A. Substance Iderftification

1. Synonyms: AN; VCN; vinyl cyanide; propenenitrile; cyanoethylene; Acrylon; Carbacryl; Fumigrain; Ventox.

2. Formula: $CH_2=CHCN$.

3. Molecular Weight: 53.1

B. Physical Data.

1. Boiling Point (760 mm Hg.): 77.3° C (171° F).

2. Specific Gravity (water=1): 0.81 (at 20° C or 68° F).

3. Vapor Density (air=1 at boiling point of acrylonitrile): 1.83.

4. Melting Point: −83° C (−117° F).

5. Vapor Pressure at 20° F: 83 mm Hg.

6. Solubility in Water, percent by weight at 20° C (68° F): 7.35.

7. Evaporation Rate (Butyl Acetate=1): 4.54.

8. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor at concentrations above the permissible exposure level. Any detectable odor of acrylonitrile may indicate overexposure.

II. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

A. Fire.

1. Flash Point: −1° C (30° F) (closed cup).

2. Autoignition Temperature: 481° C. (898° F).

3. Flammable limits air, percent by volume: Lower: 3, Upper: 17.

4. Extinguishing media: Alcohol foam, carbon dioxide, dry chemical.

5. Special fire-fighting procedures: Do not use a solid stream of water, since the stream will scatter and spread the fire. Use water spray to cool containers exposed to a fire.

6. Unusual fire and explosion hazards: Acrylonitrile is a flammable liquid. Its vapors can easily form explosive mixtures with air. All ignition sources must be controlled where acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard. Acrylonitrile vapors are heavier than air and may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which acrylonitrile is being handled.

7. For purposes of compliance with the requirements of 29 CFR 1910.106, acrylonitrile is classified as a Class IB flammable liquid. For example, 7500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

8. For purposes of compliance with 29 CFR 1910.157, acrylonitrile is classified as a Class B fire hazard.

9. For purposes of compliance with 29 CFR 1910.309, locations classified as hazardous due to the presence of acrylonitrile shall be Class I, Group D.

B. Reactivity:

1. Conditions contributing to instability: Acrylonitrile will polymerize when hot, and the additional heat liberated by the polymerization may cause containers to explode. Pure AN may self-polymerize, with a rapid build-up of pressure, resulting in an explosion hazards. Inhibitors are added to the commercial product to prevent self-polymerization;

2. Incompatibilities: Contact with strong oxidizers (especially bromine) and strong bases may cause fires and explosions. Contact with copper, copper alloys, ammonia, and amines may start serious decomposition.

3. Hazardous decomposition products: Toxic gases and vapors (such as hydrogen cyanide, oxides of nitrogen, and carbon monoxide) may be released in a fire involving acrylonitrile and certain polymers made from acrylonitrile.

4. Special precautions: Liquid acrylonitrile will attack some forms of plastics, rubbers, and coatings. Acrylonitrile monomer should be checked at least weekly to determine inhibitor content.

III. SPILL, LEAK, AND DISPOSAL PROCEDURES

A. If acrylonitrile is spilled or leaked, the following steps should be taken:

1. Remove all ignition sources.

2. The area should be evacuated at once and re-entered only after thorough ventilation.

3. If liquid acrylonitrile, collect for reclamation or absorb in paper, vermiculite, dry sand, earth, or similar material.

4. If acrylonitrile polymer, collect spilled material in the most convenient and safe manner for reclamation or for disposal.

B. Persons not wearing protective equipment should be restricted from areas of spills or leaks until clean-up has been completed.

C. Waste disposal methods: Waste material shall be disposed of in a manner that is not hazardous to employees or to the general population. Spills of acrylonitrile and flushing or such spills shall be channeled for appropriate treatment or collection for disposal. They shall not be channeled directly into the sanitary sewer system. Containers of AN and PAN wastes shall be appropriately labeled. In selecting the method of waste disposal, applicable local, state, and federal regulations should be consulted.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Exposure above the Permissible Exposure Limit:

1. Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee.)

2. Ceiling evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of acrylonitrile in the employee's breathing zone. A minimum of three (3) measurements should be taken on one work shift. The highest of all measurements taken is an estimate of the employee's ceiling exposure.

3. Monitoring techniques: The sampling and analysis under this section may be performed by collecting the acrylonitrile vapor on charcoal absorption tubes or other composition absorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as detector tubes certified by NIOSH under 42 CFR Part 84, portable direct-reading instruments, or passive dosimeters, as well as by gas and vapor absorption tubes. The method of measurement chosen should determine airborne acrylonitrile levels to an accuracy of plus or minus 25% for concentrations at or above the permissible exposure limits, and plus or minus 35% for concentrations at or above the action level but below the permissible exposure limits. Analysis of resultant samples should be by gas chromatograph.

4. Survey of operations. At least on a weekly basis, the employer shall use a direct-reading instrument, such as a portable infra-red analyzer, or equivalent point-monitoring system, to survey all operations involving liquid AN or PAN to determine points at which AN vapor or liquid may be released into the workplace. A listing of points monitored, together with levels of acrylonitrile detected, if any, shall be prepared from this survey, and the listing shall be displayed prominently in the workplace. As an alternative survey method, grab samples, utilizing vapor collection bags, with subsequent gas chromatographic analysis, can be used.

B. Since many of the duties relating to employee exposure are dependent on the results of monitoring and measuring procedures, employers shall assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

V. PROTECTIVE CLOTHING

Employees shall be provided with and required to wear appropriate protective clothing to prevent any possibility of skin contact with liquid AN or PAN. Because acrylonitrile is absorbed through the skin, it is important to prevent skin contact with liquid AN or PAN. Protective clothing shall include impermeable coveralls or similar full-body work clothing, gloves, head-coverings, as appropriate to protect areas of the body which may come in contact with liquid AN or PAN.

Employers should ascertain that the protective garments are impermeable to acry-

lonitrile. Non-impermeable clothing and shoes should not be allowed to become contaminated with liquid AN and PAN. If permeable clothing does become contaminated, it should be promptly removed and not worn again until completely free of the material. If leather footwear or other leather garments become wet from acrylonitrile, they should be replaced and not worn again, due to the ability of leather to absorb acrylonitrile and hold it against the skin. Since there is no pain associated with the blistering, it is essential that the employee be informed of this hazard so that he or she can be protected.

Any protective clothing which has developed leaks or is otherwise found to be defective shall be repaired or replaced. Clean protective clothing shall be provided to the employee at least weekly, and whenever the clothing becomes wet with liquid AN or PAN. Employees are also required to wear splash-proof safety goggles where there is any possibility of acrylonitrile contacting the eyes.

VI. HOUSEKEEPING AND HYGIENE FACILITIES

For purposes of complying with 29 CFR 1910.141, the following items should be emphasized:

A. The workplace should be kept clean, orderly, and in a sanitary condition;

B. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where liquid AN or PAN may be found.

C. Adequate washing facilities with hot and cold water should be provided, and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of acrylonitrile from the skin.

D. Change or dressing rooms with individual clothes storage facilities should be provided to prevent the contamination of street clothes with acrylonitrile. Because of the hazardous nature of acrylonitrile, contaminated protective clothing should be stored in closed containers for cleaning or disposal.

VII. MISCELLANEOUS PRECAUTIONS

A. Store acrylonitrile in tightly-closed containers in a cool, well-ventilated area, and take necessary precautions to avoid any explosion hazard.

B. High exposures to acrylonitrile can occur when transferring the liquid from one container to another.

C. Non-sparking tools must be used to open and close metal acrylonitrile containers. These containers must be effectively grounded and bonded prior to pouring.

D. Never store uninhibited acrylonitrile. The inhibitor content shall be determined weekly.

E. Acrylonitrile vapors are not inhibited. They may form polymers and clog vents of storage tanks.

F. Use of supplied-air suits or other impervious coverings may be necessary to prevent skin contact with and provide respiratory protection from acroylonitrile where the concentration of acrylonitrile is unknown or is above the ceiling limit. Supplied-air suits should be selected, used, and maintained under the immediate supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

G. Employers shall advise employees of all areas and operations where exposure to acrylonitrile could occur.

VII. COMMON OPERATIONS

Common operations in which exposure to acrylonitrile is likely to occur include the following: manufacture of the acroylonitrile monomer; synthesis of acrylic fibers, ABS and SAN plastics and resins, nitrile rubber, surface coatings, specialty chemicals, use as a chemical intermediate, use as a fumigant and in the cyanoethylation of cotton.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR ACRYLONITRILE

I. ROUTE OF ENTRY

Inhalation; skin absorption; ingestion.

II. TOXICOLOGY

Acrylonitrile vapor is an asphyxiant due to inhibitory action on metabolic enyzme systems. Animals exposed to 75 or 100 ppm for 7 hours have shown signs of anoxia; in some animals which died at the higher level, cyanomethemoglobin was found in the blood. Two human fatalities from accidental poisoning have been reported; one was caused by inhalation of an unknown concentration of the vapor, and the other was thought to be caused by skin absorption or inhalation. Most cases of intoxication from industrial exposure have been mild, with rapid onset of eye irritation, headache, sneezing, and nausea. Weakness, lightheadedness, and vomiting may also occur. Exposure to high concentrations may produce profound weakness, asphyxia, and death. The vapor is a severe eye irritant. Prolonged skin contact with the liquid may result in absorption with systemic effects, and in the formation of large blisters after a latent period of several hours. Although there is usually little or no pain or inflammation, the affected skin resembles a second-degree thermal burn. Solutions spilled on exposed skin, or on areas covered only by a light layer of clothing, evaporate rapidly, leaving no irritation, or, at the most, mild transient redness. Repeated spills on exposed skin may result in dermatitis due to solvent effects.

Results after one year of a planned two-year animal study on the effects of exposure to acrylonitrile have indicated that rats ingesting as little as 35 ppm in their drinking water develop tumors of the central nervous system. The interim results of this study have been supported by a similar study being conducted by the same laboratory, involving exposure of rats by inhalation of acrylonitrile vapor, which has shown similar types of tumors in animals exposed to 80 ppm.

In addition, the preliminary results of an epidemiological study being performed by duPont on a cohort of workers in their Camden, South Carolina acrylic fiber plant indicate a statistically significant increase in the incidence of colon and lung cancers among employees exposed to acrylonitrile.

III. SIGNS AND SYMPTOMS OF ACUTE OVEREXPOSURE

Asphyxia and death can occur from exposure to high concentrations of acrylonitrile. Symptoms of overexposure include eye irritation, headache, sneezing, nausea and vomiting, weakness, and light-headedness. Prolonged skin contact can cause blisters on the skin with the appearance of a second degree burn, but with little or no pain. Repeated skin contact may produce scaling dermatitis.

IV. TREATMENT OF ACUTE OVEREXPOSURE

Remove employee from exposure. Immediately flush eyes with water and wash skin with soap or mild detergent and water. If AN has been swallowed, and person is conscious, induce vomiting. Give artificial resuscitation if indicated. More severe cases, such as those associated with loss of consciousness, may be treated by the intravenous administration of sodium nitrite, followed by sodium thiosulfate, although this is not as effective for acrylonitrile poisoning as for inorganic cyanide poisoning.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. As noted above, exposure to acrylonitrile has been linked to increased incidence of cancers of the colon and lung in employees of the duPont acrylic fiber plant in Camden, S.C. In addition, the animal testing of acrylonitrile has resulted in the development of cancers of the central nervous system in rats exposed by either inhalation or ingestion. The physician should be aware of the findings of these studies in evaluating the health of employees exposed to acrylonitrile.

Most reported acute effects of occupational exposure to acrylonitrile are due to its ability to cause tissue anoxia and asphyxia. The effects are similar to those caused by hydrogen cyanide. Liquid acrylonitrile can be absorbed through the skin upon prolonged contact. The liquid readily penetrates leather, and will produce burns of the feet if footwear contaminated with acrylonitrile is not removed.

It is important for the physician to become familiar with the operating conditions in which exposure to acrylonitrile may occur. Those employees with skin diseases may not tolerate the wearing of whatever protective clothing may be necessary to protect them from exposure. In addition, those with chronic respiratory disease may not tolerate the wearing of negative-pressure respirators.

B. Sureveillance and screening.

Medical histories and laboratory examinations are required for each employee subject to exposure to acrylonitrile above the action level. The employer must screen employees for history of certain medical conditions which might place the employee at increased risk from exposure.

1. *Central nervous system dysfunction.* Acute effects of exposure to acrylonitrile generally involve the central nervous system. Symptoms of acrylonitrile exposure include headache, nausea, dizziness, and general weakness. The animal studies cited above suggest possible carcinogenic effects of acrylonitrile on the central nervous system, since rats exposed by either inhalation or ingestion have developed similar CNS tumors.

2. *Respiratory disease.* The duPont data indicate an increased risk of lung cancer among employees exposed to acrylonitrile.

3. *Gastrointestinal disease.* The duPont data indicate an increased risk of cancer of the colon among employees exposed to acrylonitrile. In addition, the animal studies show possible tumor production in the stomachs of the rats in the ingestion study.

4. *Skin disease.* Acrylonitrile can cause skin burns when prolonged skin contact with the liquid occurs. In addition, repeated skin contact with the liquid can cause dermatitis.

5 *General.* The purpose of the medical procedures outlined in the standard is to es-

tablish a baseline for future health monitoring. Persons unusually susceptible to the effects of anoxia or those with anemia would be expected to be at increased risk. In addition to emphasis on the CNS, respiratory and gastro-intestinal systems, the cardiovascular system, liver, and kidney function should also be stressed.

APPENDIX REFERENCES

1. Communication from A. C. Clark, Manufacturing Chemists Association (MCA), to Douglas Costle, Environmental Protection Agency, dated April 11, 1977.

2. Norris, J. M., "Status Report on the 2-year Study Incorporating Acrylonitrile in the Drinking Water of Rats" (an MCA-sponsored study done by Dow Chemical), dated Jan. 12, 1977.

3. Quast, J. F., et al., "Toxicity of Drinking Water Containing Acrylonitrile (AN) in Rats: Results After 12 Months" (an MCA-sponsored study done by Dow Chemical), dated March 1977.

4. O'Berg, M. T., "Epidemiologic Study of Workers Exposed to Acrylonitrile: Preliminary Results," duPont Company, May 1977.

5. Kirk-Othmer Encyclopedia of Chemical Technology, 2nd ed., A. Stauden, Executive Editor, p. 319, 1972.

6. American Conference of Governmental Industrial Hygienists "Acrylonitrile," Documentation of the Threshold Limit Values for Substances in Workroom Air (3d Ed., 2d printing), Cincinnati, 1974, p. 6.

7. Manufacturing Chemists Association, Inc., Chemical Safety Data Sheet SD-31, "Acrylonitrile." Washington, D.C., 1974, pp. 16-19.

8. Brieger, H., et al., "Acrylonitrile: Spectrophotometric Determination, Acute Toxicity, and Mechanism of Action," A.M.A. Archive of Industrial Hygiene and Occupational Medicine, 6:128-140, 1952.

9. Wolfsie, J. H., "Treatment of Cyanide Poisoning in Industry," A.M.A. Archives of Industrial Hygiene and Occupational Medicine, 4:417-425, 1951.

10. Hygienic Guide Series: "Acrylonitrile," American Industrial Hygiene Association Journal, 18:78-79, 1957.

11. Patty, F. A., "Industrial Hygiene and Toxicology," Volume II: Toxicology (2d Ed., revised), Interscience Publishing Company, New York, 1963, pp. 1992, 2009-2012.

(Secs. 4, 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 653, 655, 657); Secretay of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911.)

[FR Doc. 78-1275 Filed 1-16-78; 11:00 am]

federal register

TUESDAY, JANUARY 17, 1978
PART V

DEPARTMENT OF LABOR

Employment and Training Administration

■

INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES

p. 2625

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 616—INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES

Amendment of Regulations

AGENCY: Employment and Training Administration, Labor

ACTION: Final rule

SUMMARY: The Interstate Arrangement for Combining Employment and Wages is a permanent part of the Federal-State Unemployment Compensation Program which is designed to pay unemployment compensation to those individuals whose base period employment was performed and wages were earned in two or more States. The Department of Labor is revising the combined-wage regulations to reflect recent amendments to the laws. The recent amendments require the Virgin Islands to participate in the Interstate Arrangement when it becomes a cooperating State in the Federal-State Unemployment Compensation Program, and change the rules for determining the Federal share of the costs of benefits on claims filed jointly under Federal and State unemployment compensation laws. Amendment of the regulations is necessary to conform them to the amended laws.

EFFECTIVE DATE: February 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-7032.

SUPPLEMENTARY INFORMATION: Part 616, Chapter V, Title 20 of the Code of Federal Regulations implements the Interstate Arrangement for Combining Employment and Wages, which was created under the Employment Security Amendments of 1970 (Pub. L. 91-373: 84 Stat. 695, 708). These amendments to Part 616 have been developed in consultation with the duly designated representatives of the Interstate Conference of Employment Security Agencies, who pursuant to § 616.2 of Part 616, are recognized by the Secretary of Labor as agents of the State unemployment compensation agencies for the purposes of the consultation required by section 3304(a)(9)(B) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(9)(B)).

The amendments to Part 616 reflect recent amendments to pertinent statutes, and were published as a proposal with opportunity for public participation at 42 FR 57252, on November 1, 1977. No change is made in the amendments as proposed. Although comments were received from three sources, the comments speak to points which are beyond the scope of the proposed amendments. To give consideration to these comments, the same process of consultation with the duly designated representatives of the Interstate Conference of Employment Security Agencies must be undertaken as noted above. Therefore, responses to the comments received will be undertaken in accordance with established procedures.

The published proposal fully explains the substantive changes in the regulations. In summation the amendments include the following significant changes:

1. Section 616.6(a) is changed to make it possible for the Virgin Islands to participate in the Interstate Arrangement for Combining Employment and Wages when the Virgin Islands becomes a cooperating State in the Federal-State Unemployment Compensation Program.

2. Section 616.8(f) is amended by adding paragraph 3. This new paragraph prescribes how benefit costs shall be charged to the United States when the wage credits in a Combined-Wage Claim include wage credits under the Unemployment Compensation Program for Ex-Servicemen and Women and the Unemployment Compensation Program for Federal Civilian Employees.

NOTE.—The Department of Labor has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11949 and applicable authority.

This document was prepared under the direction and control of Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone: 202-376-7032.

Accordingly, amendments to Part 616 of Chapter V of Title 20, Code of Federal Regulations, are set forth below.

Signed at Washington, D.C., on January 11, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

1. In § 616.6, paragraphs (a) and (e)(2) are amended to read as follows:

§ 616.6 Definitions.

(a) *"State".* "State" includes the States of the United States, the District of Columbia and the Commonwealth of Puerto Rico, and includes the Virgin Islands effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

* * * * *

(e) *Paying State.*

* * * * *

(2) If the State in which a Combined-Wage Claimant files a Combined-Wage Claim is not the Paying State under the criterion set forth in paragraph (e)(1) of this section, or if the Combined-Wage Claim is filed in Canada or the Virgin Islands, then the Paying State shall be that State where the Combined-Wage Claimant was last employed in covered employment among the States in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages: *Provided,* That, this paragraph (2) shall read as if the Virgin Islands was not referred to therein, effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

* * * * *

2. In § 616.8 paragraph (f) is amended by adding thereto a new subparagraph (3) to read as follows:

§ 616.8 Responsibilities of the paying State.

* * * * *

(f) *Statement of benefit charges.*

* * * * *

(3) With respect to new claims establishing a benefit year effective on and after July 1, 1977, the United States shall be charged directly by the Paying State, in the same manner as is provided in paragraphs (f)(1) and (f)(2) of this section, in regard to Federal civilian service and wages and Federal military service and wages assigned or transferred to the Paying State and included in Combined-Wage Claims in accordance with this Part and Parts 609 and 614 of this chapter. With respect to new claims effective before July 1, 1977, prior law shall apply.

[FR Doc. 78-1314 Filed 1-16-78; 8:45 am]

ARE YOU INTERESTED IN OBTAINING INFORMATION ABOUT OR ATTENDING A FOUR-DAY LEGAL DRAFTING WORKSHOP CONDUCTED BY THE OFFICE OF THE FEDERAL REGISTER?

If you are, clip, complete and return the coupon to:

Ms. Rose Anne Lawson
Office of the Federal Register
National Archives and Records Service
Washington, D.C. 20408

Please print carefully. The coupon is your address label.

_____
(Name)

_____
(Address)

_____
(City, State, ZIP)