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TUESDAY, JANUARY 31, 1978

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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
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	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.

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

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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rules and regulations

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

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

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Treasury

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday, January 30, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Civil Service Commission.

AC: Final Rule.

SUMMARY: This amendment (1) revokes the Schedule C exception for the position of Adviser to the Secretary (Counselor to the Chairman, Economic Policy Board), Office of the Secretary, and (2) excepts from the competitive service under Schedule C one position of Assistant Secretary (Enforcement and Operations), Office of the Under Secretary, Office of the Secretary, because the position is confidential in nature.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION:

On Position Authority Contact, Sallie E. West, Civil Service Commission, 202-632-3782.

On Position Content Contact, Henry DeSeguirant, Department of the Treasury, 202-566-2707.

Accordingly, 5 CFR 213.3305(a)(59) is revoked and (78) is added as set out below:

§ 213.3305 Department of the Treasury.

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

(59) [Revoked.]

* * * * *

(78) Assistant Secretary (Enforcement and Operations), Office of the Under Secretary.

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

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-2601 Filed 1-27-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of an existing schedule C position from Confidential Secretary to Private Secretary for the purpose of more accurately describing the duties of the position; and (2) excepts under schedule C one position of Executive Assistant to the Assistant Secretary for Policy and Evaluation because it is confidential in nature.

EFFEC DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(c)(2) is amended and (o)(2) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(2) One Private Secretary to one member of the Commission and one Confidential Secretary to each of the Commission's remaining three members.

* * * * *

(o) *Office of the Assistant Secretary for Policy and Evaluation.* * * *

(2) One Executive Assistant to the Assistant 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. 78-2602 Filed 1-30-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Pennsylvania Avenue Development Corporation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Civil Engineer (Construction Manager) with the Pennsylvania Avenue Development Corporation is excepted under schedule B because it is not practicable to hold a competitive examination for the position.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

rdingly, 5 CFR 213.3295 is added as set out below:

§ 213.3295 Pennsylvania Avenue Development Corporation.

(a) One position of Civil Engineer (Construction Manager).

(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. 78-2603 Filed 1-30-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Assistant (Private Secretary) to the Pardon Attorney is excepted under schedule C because it is confidential in nature.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

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

§ 213.3310 Department of Justice.

* * * * *

(y) *Office of the Pardon Attorney.* (1) One confidential Assistant (Private Secretary) to the Pardon Attorney.

(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. 78-2604 Filed 1-30-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Veterans Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The schedule C exception of three positions of Confidential Assistant to the Assistant Deputy Administrator is revoked under the automatic revocation provisions because the positions have been vacant for more than 60 days. One additional position of Confidential Assistant to the Executive Assistant to the Administrator and one additional position of confidentialistant to the General Counsel are expected under schedule C because they are confidential in nature.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3327(a)(8) is revoked and (a)(7) and (a)(11) are amended as set out below:

§ 213.3327 Veterans Administration.

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

(7) Three confidential Assistants to the Executive Assistant to the Administrator.

(8) [Revoked].

* * * * *

(11) Five Confidential Assistants to the General Counsel.

(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. 78-2605 Filed 1-30-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Federal Deposit Insurance Corporation

AGENCY: Civil Service Commission.

ACTION: Final rule.

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

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3333(l) is added as set out below:

§ 213.3333

Federal Deposit Insurance Corporation.

* * * * *

(l) One Special Assistant for Public Affairs.

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

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

[FR Doc. 78-2756 Filed 1-30-78; 8:45 am]

[4410-01]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

Notice to Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service to require the Service to attach Form M-211 "Notice to Nonimmigrants," to the Entry-Departure documents (Forms I-94 nonimmigrant aliens entering the United States. The form tells the alien that the period of time for which he is permitted to remain in the United States is that written on his Form I-94 by the immigration inspector and not the period of time for which his visa is valid. The form has been created in order to eliminate confusion on the part of nonimmigrant aliens as to the length of time they may lawfully remain in the United States. The amendment is necessary to include reference to the form in the regulations.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This final rule amends 8 CFR 235.1(f) to add a new subparagraph (1a) to include a reference to Form M-211 "Notice to Nonimmigrants," which is to be attached to the Form I-94 prepared for nonimmigrants entering the United States.

In Part 235, § 235.1(f) is amended by adding a new subparagraph (1a) to read as follows:

§ 235.1 Scope of examination.

(f) *Arrival-Departure Card, Form I-94*—(1) * * *

(1a) *Notice to Nonimmigrants.* Form M-211, "Notice to Nonimmigrants" shall be attached to the original copy of each Form I-94 issued to a nonimmigrant alien under subparagraph (1) of this paragraph.

* * * * *

(Sec. 103 (8 U.S.C. 1103).)

This amendment is issued under the provisions of section 552 of Title 5 of the United States Code, as amended by Pub. L. 93-502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is not necessary in this instance because the amendment contained in this order relates to Service procedure.

Effective date. This amendment becomes effective on January 31, 1978.

Dated: January 25, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-2569 Filed 1-30-78; 8:45 am]

[4410-01]

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Addition of British Caledonian Airways, Ltd. and Korean Air Lines Co., Ltd. to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add two carriers to the list of transportation lines which have entered into agreements with the Commissioner of Immigration and Naturalization to guarantee the passage tgh the United States in immediate and continuous transit of aliens destined to foreign countries. These amendments are necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: These amendments to 8 CFR 238.3 are published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments contained in this order add transportation lines to the listing and are editorial in nature.

1. On October 28, 1977, the Commissioner of Immigration and Naturalization concluded an agreement with British Caledonian Airways Limited to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR Part 238. This agreement supersedes the agreements between the Service and two predecessor lines, British United Airlines Ltd. and Caledonian Airways (Prestwick) Ltd. Accordingly, 8 CFR 238.3 will be amended by adding in alphabetical sequence "British Caledonian Airways, Limited", and deleting "British United Airlines Ltd." and "Caledonian Airways (Prestwick) Ltd." from the listing.

2. On December 16, 1977, the Commissioner of Immigration and Naturalization concluded an agreement with Korean Air Lines Co., Ltd. to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR 238. This agreement supersedes the agreement between the Service and its predecessor, Korean National Airlines. Accordingly, 8 CFR 238.3(b) will be further amended by adding "Korean Air Lines Co., Ltd." in alphabetical sequence and by deleting "Korean National Airlines" from the listing.

In the light of the foregoing, the following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations.

§ 238.3 [Amended]

In § 238.3 aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) signatory lines is amended by adding in alphabetical sequence, "British Caledonian Airways Limited" and "Korean Air Lines Co., Ltd." and by deleting "British United Airlines Ltd.", "Caledonian Airways (Prestwick) Ltd." and "Korean National Airlines".

(Sec. 103, 238(d), (8 U.S.C. 1103, 1228(d)).)

Effective date. The amendments contained in this order will become effective on January 31, 1978.

Dated: January 25, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-2572 Filed 1-30-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION[1]

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Amendments to Administrative Procedures Regarding Issuance of Remedial Orders

EDITORIAL NOTE: This document originally appeared in the FEDERAL REGISTER of Friday, January 13, 1978, at page 1930. this document is reprinted here in full text to correct typographical errors involving the capitalization of certain words and the codification of § 205.199F.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby amends its administrative procedures regulations regarding the manner in which Remedial Orders are issued. The purpose of the amendments is to provide a fuller administrative review of the issues raised in each Remedial Order proceeding prior to issuance of the Order in final form. Remedial Orders will be issued in proposed form and aggrieved or interested parties will be able to present evidence relevant thereto prior to issuance of the Order in final form. Evidentiary hearings will be convened where appropriate and an opportunity for oral argument provided as a matter of right. The revised procedures will also apply to Remedial Orders for Immediate compliance and Orders of Disallowance.

EFFECTIVE DATE: January 6, 1978; Comments by February 15, 1978.

ADDRESSES: Written Comments to: Department of Energy, Office of Regulations Management, Room 2214, 2000 M Street, Box QW, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

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

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

Melvin Goldstein (Office of Administrative Review), 2000 M Street NW., Room 8002, Washington, D.C. 20461, 202-254-5134.

Nancy E. Williams (Office of General counsel), 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461, 202-566-2454.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Amendments Adopted.
III. Comment Procedure.
IV. Interim Requirements.
V. Other Procedural Considerations.

A. BACKGROUND

The procedures which now govern the issuance of Remedial Orders pursuant to the Emergency Petroleum Allocation Act of 1973, as amended, are found in Subpart O of 10 CFR Part 205. ERA wishes to revise these procedures in order to produce a more fully developed administrative record prior to issuance of a Remedial Order. The development of a record through the hearing process described below will assist any reviewing authority in considering arguments on the appeal of a Remedial Order in an effective and efficient manner. These procedures will also give interested parties a better chance to present facts and legal arguments in support of the position they contend the ERA should adopt in the Remedial Order.

The ERA has separated the prosecutorial and adjudicatory functions which are within the jurisdiction of the Administrator. Under the amendments, the offices of the Special Counsel for Compliance and of the Assistant Administrator for Enforcement will issue Proposed Remedial Orders. Those Proposed Orders will then be subject to review by the Office of Administrative Review. In any proceeding before the Office of Administrative Review regarding a Proposed Remedial Order, the enforcement office that issued the Proposed Order will be a party to the proceeding and will submit its position in the same manner as any other party.

B. AMENDMENTS ADOPTED

Under the new procedures the Special Counsel for Compliance or the Assistant Administrator for Enforcement of the ERA will issue Notices of Probable Violation or Proposed Remedial Orders under Subpart O of Part 205 in

[1] EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

order to commence most formal compliance proceedings. If a Notice of Probable Violation is served, the person upon whom it is served will continue to have an opportunity to file a reply as now provided in § 205.191. If the enforcement office then finds that a violation exists or is about to occur, it will issue a Proposed Remedial Order. It may also eliminate the Notice of Probable Violation step and proceed immediately to the issuance of a Proposed Remedial Order. In either case, the Proposed Remedial Order will be served upon all parties to the compliance proceeding. Once the Proposed Remedial Order is issued, further proceedings in the matter will be before the Office of Administrative Review.

Any aggrieved party will have the opportunity to file briefs and other documents specifying the errors which it is believed appear in the Proposed Remedial Order. Parties will also have the opportunity to request that an evidentiary hearing be convened with respect to relevant, substantial and material issues of fact. An opportunity for oral argument will, in addition, be provided as a matter of right, and the parties to the proceeding will be afforded an opportunity to respond in a formal manner to the written submissions of any other party.

The amendments also include provisions which will permit various types of pre-hearing discovery. A prior showing will, however, have to be made that the discovery is necessary to obtain relevant and material evidence and that discovery will not unduly delay the proceeding.

After the completion of such proceedings, the Proposed Remedial Order will be considered in view of the material presented and, if appropriate, a final Remedial Order will be issued by the Office of Administrative Review.

The amendments provide that decisions with respect to the issuance of final Remedial Orders will be made solely by the Office of Administrative Review. Consequently, individuals in the Office of Administrative Review who are responsible for deciding a case will not be permitted to receive *ex parte* communications from persons outside that Office regarding matters involved in a Remedial Order proceeding.

The new procedures will apply to Remedial Orders for Immediate Compliance and Orders of Disallowance as well as to Remedial Orders.

The amendments provide that a recipient of a Remedial Order issued pursuant to a NOPV issued after October 1, 1977, may request a review of that Order by the Federal Energy Regulatory Commission, in accord with the DOE Organization Act. For purposes of the amendments, the contest and review of a Remedial Order as described in Section 503 of the DOE Act shall be deemed to be an Appeal, and governed by § 205.199C of the new regulations, "Appeal of Remedial Order."

Nothing in these amendments is intended to prohibit the Special Counsel for Compliance or the Assistant Administrator for Enforcement, in coordination with the Department of Justice, from initiating an appropriate civil or criminal enforcement action in court rather than utilizing the administrative procedures established in these regulations.

C. Comment Procedure

No substantial issue of fact or law exists with respect to the amendments, and the amendments are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Thus, ERA will not provide opportunity for oral presentation of views, data, or arguments regarding the amendments.

You are, however, invited to submit written views, data or arguments regarding the amendments set forth in this notice. Submit comments to the address indicated in the "addresses" section of this preamble and write on the outside of the envelope the designation "Amendments to Administrative Procedures Regarding Issuance of Remedial Orders." Fifteen copies should be submitted. You may inspect all comments received by DOE in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., between 8:00 a.m. and 4:30 p.m., Monday through Friday, and in the Office of Administrative Review Public Docket Room, Room B-120, 2000 M Street, N.W., between 1:00 p.m. and 5:00 p.m., Monday through Friday.

D. Interim Requirements

The amendments will be adopted immediately by the ERA for purposes of further Remedial Order proceedings, although the regulations will not be promulgated as final rules until public comment thereon has been received and analyzed. Immediate adoption of the new procedures will provide for a consistent approach with respect to Remedial Order proceedings in the period until these regulations are adopted as final rules.

The ERA also believes immediate adoption of the procedures in the amendments will aid in effectuating the intent of Congress as expressed in the Conference Report accompanying the DOE Organization Act, i.e., to guarantee a "separation of the prosecutorial and judicial functions relating to enforcement." Further, since the new procedures provide additional rights in that a greater opportunity is afforded for submission of factual data and legal arguments in support of a party's position prior to the issuance of a final Order, the ERA believes it is appropriate, and that no party will be adversely affected thereby, to adopt the new procedures effective immediately.

Since the proposed regulations will be adopted immediately, any formal administrative remedial action which is taken by the Assistant Administrator for Enforcement or the Special Counsel for Compliance subsequent to the issuance of these amendments will be issued in the form of a Proposed Remedial Order. The procedures of the amendments will then be applicable to issuance of the Proposed Remedial Order as a final Order.

E. Other Procedural Considerations

These amendments do not affect the quality of the environment, and therefore the provisions of Section 7(a)(1) of the Federal Energy Administration Act of 1974, as amended, are not applicable to the amendments.

This document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In accord with Section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission was notified that the Administrator intended to adopt these amendments, and the Commission has not determined that the regulations would significantly affect any function within its jurisdiction pursuant to Section 402(a)(1), (b) and (c)(1) of that Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 205 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., January 6, 1978.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. The table of contents for Part 205, Subpart O, is amended by revising the entries for Section 205.190 through 205.197 and by adding Sections 205.198 through 205.199J, as follows:

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Subpart O—Notice of Probable Violation, Remedial Order, Notice of Proposed Disallowance, and Order of Disallowance

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Sec.
205.190 Purpose and Scope.
205.191 Notice of Probable Violation, Commencement of Enforcement Proceedings.
205.192 Issuance of Proposed Remedial Order.
205.193 Notice of Objection.
205.194 Statement of Objections.
205.195 Response to Statement of Objections.
205.196 Motion for Evidentiary Hearing.
205.197 Decision with Respect to Motion for Evidentiary Hearing.
205.198 Discovery.
205.199 Evidentiary Hearing.
205.199A Hearing for the Purpose of Oral Argument Only.
205.199B Issuance of Remedial Order.
205.199C Appeal of Remedial Order.
205.199D Interim Remedial Order for Immediate Compliance.
205.199E Notice of Proposed Disallowance, Proposed Order of Disallowance, and Order of Disallowance.
205.199F Ex Parte Communications.
205.199G Extension of Time; Interim and Ancillary Orders.
205.199H Actions Not Subject to Administrative Appeal.
205.199I Remedies.
205.199J Consent Orders.

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2. Sections 205.190, 205.191, 205.192, 205.193, 205.194, 205.195, 205.196 and 205.197 are revised and §§ 205.198 through 205.199J are added as follows:

§ 205.190 Purpose and Scope; Commencement of Enforcement Proceedings.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the ERA regulations and the procedures for issuance of a Notice of Probable Violation, a Proposed Remedial Order, a Remedial Order, or a Remedial Order for Immediate Compliance, except that it shall not apply with respect to violations of Parts 209 and 213. Nothing in these regulations is intended to affect the authority of ERA enforcement officials in coordination with the Department of Justice to initiate appropriate civil or criminal enforcement actions in court without first initiating administrative proceedings pursuant to this Subpart.

(b) When any report required by the ERA or any audit or investigation discloses, or the ERA otherwise discovers, that there is reason to believe a violation of any provision of this chapter, or any order issued thereunder, has occurred, is continuing or is about to occur, the ERA may conduct proceedings to determine the nature and extent of the violation and may issue a Remedial Order thereafter. The ERA may commence such proceeding by serving a Notice of Probable Violation, a Proposed Remedial Order, or an Interim Remedial Order for Immediate Compliance.

§ 205.191 Notice of Probable Violation.

(a) The ERA may begin a proceeding under this subpart by issuing a Notice of Probable Violation if the ERA has reason to believe that a violation has occurred, is continuing or is about to occur.

(b) Within 10 days of the service of a Notice of Probable Violation, the person upon whom the Notice is served may file a reply with the ERA office that issued the Notice of Probable Violation at the address provided in § 205.12. The ERA may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the Notice of Probable Violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the Notice of Probable Violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE or its predecessor agencies.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of § 205.171.

(f) If a person has not filed a reply with the ERA within the 10-day period provided, and the ERA has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the Notice of Probable Violation.

(g) If the ERA finds, after the 10-day period provided in § 205.191(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a Remedial Order would not be appropriate, it shall rescind the Notice of Probable Violation and inform the person to whom the Notice was issued of the rescission.

§ 205.192 Issuance of Proposed Remedial Order.

(a) If the ERA finds, after the 10-day period provided in Section 205.191(b), that a violation has occurred, is continuing, or is about to occur, it may issue a Proposed Remedial Order, which shall set forth the relevant facts and legal basis for the conclusions reached therein.

(b) The ERA may issue a Proposed Remedial Order at any time it finds that a violation has occurred, is continuing, or is about to occur even if it has not previously issued a Notice of Probable Violation.

(c) The ERA shall serve a copy of the Proposed Remedial Order upon the person to whom it is directed and upon any other person readily identifiable by the ERA as likely to be aggrieved by issuance of the Proposed Remedial Order as a final order.

(d) A Proposed Remedial Order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

§ 205.193 Notice of Objection.

(a) Within 10 days of service of the Proposed Remedial Order any aggrieved person may file a Notice of Objection to the Order with the National Office of Administrative Review. The Notice shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order.

(b) Any person who fails to file a timely Notice of Objection shall be deemed to consent to the issuance of the Proposed Remedial Order as a final order.

(c) Any person who files a Notice of Objection shall serve a copy of the Notice upon each person who is readily identifiable as a person who will be aggrieved by the ERA action sought, including those persons who have been served copies of the Proposed Remedial Order, and upon the person who issued the Proposed Remedial Order.

(d) The Notice shall include a certification of compliance with the provisions of this section, the names and addresses of each person served with a copy of the Notice, and the date and manner of service.

(e) The Office of Administrative Review may issue a final Remedial Order without further proceedings if no person files a timely Notice of Objection.

(f) In order to exhaust adminstrative remedies with respect to a Remedial Order proceeding, a party must file a timely Notice of Objection with the Office of Administrative Review.

§ 205.194 Statement of Objections.

(a) *Filing Requirement.* A Statement of Objections to a Proposed Remedial Order must be filed within 30 days of service of the Proposed Remedial Order. A request for an extension of time for filing must be submitted in writing and may be granted for good cause shown.

(b) *Filing and Service of Statement of Objections and Related Documents.*

(1) Statements of Objections, Responses to such Statements, and any motions or other documents filed in connection with the proceeding shall be filed with the National Office of Administrative Review.

(i) Any document referred to in (b)(1) shall be filed in triplicate.

(ii) If a party claims that any portion of a document referred to in (b)(1) contains confidential information, such information should be deleted from two (2) of the copies which are filed. One copy from which confidential information has been deleted will be placed in the Public Docket Room described in § 303.13.

(2) A copy of each of the documents referred to in subsection (b)(1) shall be served upon each person who is readily identifiable as a person who will be aggrieved by the ERA action sought, including those persons who have been served copies of the Proposed Remedial Order, and upon the person who issued the Proposed Remedial Order.

(3) Any filing made under this section shall include a certification of compliance with the provisions of this section, the names and addresses of each person served, and the date and manner of service.

(c) *Contents of Statement of Objections.* The Statement of Objections shall set forth the basis for the objections to the issuance of the Proposed Remedial Order as a final order, including a specification of every issue of fact or law which the party intends to contest in any further proceeding involving the compliance matter which is the subject of the Proposed Remedial Order. The Statement shall set forth the particular findings of fact contained in the Proposed Remedial Order which are contested and the alternative findings which are sought. The Statement shall include a discussion of all relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE or its predecessor agencies.

§ 205.195 Response to Statement of Objections.

Within 20 days of receipt of a Statement of Objections any party may file a Response. The Response shall contain a full discussion of the position which the party asserts should be adopted in the matter and a discussion of the legal and factual basis which supports that position.

§ 205.196 Motion for Evidentiary Hearing.

Any party may file a motion requesting that an evidentiary hearing be convened with respect to relevant, substantial and material issues of fact at the same time that it files a Statement of Objections. A motion requesting an evidentiary hearing may be filed by any other party within 15 days after that party is served with a Statement of Objections.

(a) *Contents of Motion for Evidentiary Hearing.* A Motion for Evidentiary Hearing shall specify the manner in which the movant proposes to establish the basis for the alternative findings it asserts in its Statement of Objections. The movant shall also describe the manner in which the issue of fact was raised in any prior adminstrative proceeding which led to issuance of the Proposed Remedial Order. If the movant asserts that its position can only be established through the introduction of evidence at an evidentiary hearing, the movant shall with respect to each disputed finding of fact:

(1) Identify each witness whose testimony is required;

(2) State the reasons why the testimony of the witness is necessary; and

(3) State the reasons why the asserted position can be established only through the direct questioning of witnesses at an evidentiary hearing.

(b) *Statement of Additional Factual Representations.* At the time a Motion for an Evidentiary Hearing is filed, the movant may also file a Statement of Factual Representations which are not referred to in the Proposed Remedial Order that the movant contends are material and relevant to establish that the Proposed Remedial Order is either erroneous in fact or law or is arbitrary or capricious. The Statement shall set forth the particular findings of fact which the movant asserts should be made, the reasons why such representations are relevant and material, and the manner by which the validity of the factual representations will be established. The movant shall also specify if and how the issue of fact was raised in any prior administrative proceeding which led to issuance of the Proposed Remedial Order. If the movant asserts that its position can only be established through the introduction of evidence at an evidentiary hearing, the movant shall:

(1) Identify each witness whose testimony is required;

(2) State the reasons why the testimony of the witness is necessary; and

(3) State the reasons why the asserted position can be established only through the direct questioning of witnesses at an evidentiary hearing.

(c) *Response to Motion for Evidentiary Hearing.* Within 20 days of receipt of any Motion for Evidentiary Hearing and accompanying Statements, the person who has issued the Proposed Remedial Order shall, and any aggrieved party may, file a Response with the Office of Administrative Review. A Response shall, with respect to each factual representation in the movant's Statements:

(1) Specify the particular factual representations which are accepted as correct for purposes of the proceeding;

(2) Specify the particular factual representations which are denied;

(3) Specify the particular factual representations which the movant is not in a position to accept or deny;

(4) Specify the particular factual representations which are not accepted and the responding party wishes proven by the submission of evidence; and

(5) Specify the particular factual representations which the responding party is prepared to dispute through the testimony of witnesses or the submission of verified documents.

(d) *Motions to Dismiss.* Within 20 days of receipt of any Motion for Evidentiary Hearing and accompanying Statements, any party may also file a Motion to Dismiss any factual representation put forward by the movant on the grounds of vagueness, immateriality, or irrelevance. Any party filing a Motion to Dismiss shall have 10 days following a decision on the Motion to Dismiss to file the Response referred to in (c) above.

§ 205.197 Decision With Respect to Motion for Evidentiary Hearing.

(a) After all submissions with respect to a Motion for Evidentiary Hearing are filed, the Office of Administrative Review may conduct conferences in order to resolve any differences of view and may convene a hearing for the presentation of oral argument. Any such hearing shall be convened pursuant to § 205.172. In addition, the Office of Administrative Review may adopt procedural measures which it concludes are appropriate to facilitate a resolution of the matter.

(b) After considering all relevant information received in connection with the Motion, the Office of Administrative Review shall enter an Order with respect to the Motion. If the Motion is granted in whole or in part, the Order shall specify the particular issues of fact which will be set forth for the evidentiary hearing. If the Motion is denied, the Order may nevertheless permit the movant to file affidavits or other documents in support of the particular finding of fact(s) which it asserted should be reached in the Motion.

(c) The Order of the Office of Administrative Review with respect to a

Motion for Evidentiary Hearing shall be deemed to be an Interlocutory Order which is subject to further administrative review or appeal only upon issuance of the Remedial Order referred to in § 205.199B.

§ 205.198 Discovery.

(a) Any party may file a Motion for Discovery at the same time that it files the Statement of Objections referred to in § 205.194. A Motion for Discovery may be filed by any other party within 15 days after that party is served with a Statement of Objections.

(b) A Motion for Discovery may request that:

(1) A party produce for inspection and photocopying non-privileged written material in its possession;

(2) A party respond to written interrogatories;

(3) A party admit to the genuineness of any relevant document or the truth of any relevant fact; or

(4) The deposition of a material witness be taken.

(c) Any Motion for Discovery shall set forth in detail the reasons why the particular discovery is necessary in order to obtain relevant and material evidence.

(d) Within 10 days after a Motion for Discovery is received, any party may file a request that the Motion be denied in whole or in part, stating the reasons which support the request.

(e) Discovery may be conducted only pursuant to an Order issued by the Office of Administrative Review. A Motion for Discovery will be granted only if it is concluded that discovery is necessary for the party to obtain relevant and material evidence and that discovery will not unduly delay the proceeding. Depositions will be permitted only if a clear and convincing showing is made that the party cannot obtain the material through one of the other discovery means specified in § 205.198(b).

(f) The Director of the Office of Administrative Review or his designee may issue subpoenas in connection with the approval of a Motion for Discovery. The provisions of § 205.8 for witness fees shall apply to any such subpoena.

(g) Any direct expenses incurred by a party to produce evidence pursuant to a Motion for Discovery may be charged to the party who filed the Motion, if so ordered by the Office of Administrative Review.

(h) (1) If a party fails to comply with an Order relating to discovery, the Office of Administrative Review may take appropriate action, including but not limited to the following:

(i) Infer that the testimony, documents or other evidence sought to be discovered would have been adverse to the party;

(ii) Rule that for the purposes of the proceeding the matter or matters sought to be discovered be taken as established adversely to the party;

(iii) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party or the documents or other evidence;

(iv) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld testimony, documents or other evidence would have shown;

(v) Rule that a pleading, or part of a pleading, or a motion or other submission by the party, concerning which discovery was sought, be stricken, or that a decision with regard to the proceeding be rendered against the party, or both.

(2) It shall be the duty of parties to request action of the foregoing types or to request that other appropriate relief be fashioned to compensate them for the lack of withheld testimony, documents or other evidence.

(3) For purposes of subsection (h)(1), an evasive or incomplete answer will be deemed a failure to answer.

(i) Any Order issued by the Office of Administrative Review with respect to discovery shall be deemed to be an Interlocutory Order which is subject to further administrative review or appeal only upon issuance of the Remedial Order referred to in § 205.199B.

§ 205.199 Evidentiary Hearing.

(a) All evidentiary hearings convened pursuant to this section shall be conducted by the Director of the Office of Administrative Review or his designee.

(b) At any evidentiary hearing, the parties shall have the opportunity to present evidence which:

(1) Directly relates to a particular issue of fact which has been set forth for hearing; and

(2) Is material and relevant to establish the validity of the position which it is asserted the ERA should adopt.

(c) The presiding officer shall afford the right of cross examination to the extent he determines that such is necessary for a full and true disclosure of the facts.

(d) The presiding officer may administer oaths and affirmations, rule on objections to the presentation of evidence, receive relevant material, dispose of procedural requests, determine the format of the hearing, direct that written motions or briefs be provided with respect to issues raised during the course of the hearing and otherwise regulate the course of the hearing. Further, the presiding officer may take reasonable measures to exclude duplicative material from the hearing. The presiding officer may also require that evidence be submitted through affidavits or other documents if he concludes that the presentation of evidence through the direct testimony of witnesses will unduly delay the orderly progress of the hearing and would add little substantive value in resolving the issues involved in the hearing.

(e) The provisions of § 205.8 of this Part which relate to subpoenas and witness fees shall apply to any evidentiary hearing.

(f) Following the presentation of all evidence, the parties shall be afforded an opportunity to present oral argument. The presiding officer may direct that written memoranda, briefs or other documentary material be submitted in support of any position which a party advances or with respect to any other issue specified. If written submissions are requested, other parties shall be permitted to file responsive memoranda, briefs or documents.

§ 205.199A Hearing for the Purpose of Oral Argument Only.

(a) If an evidentiary hearing is not convened, any party may nevertheless request a hearing so that oral argument may be presented with respect to the Proposed Remedial Order.

(1) If a party does not file a Motion for Evidentiary Hearing at the time it files the Statement of Objections referred to in § 205.194, a request for oral argument shall be filed at the time a Statement of Objections is filed.

(2) If a party files a Motion for Evidentiary Hearing at the time a Statement of Objections is filed, but that Motion is subsequently denied, the party shall file a request for oral argument within 10 days of receipt of that denial.

(3) A request for a hearing for oral argument shall be filed by any other party within 10 days after that party is served with a Statement of Objections.

(b) Upon a timely request by any party or on its own initiative, the Office of Administrative Review shall conduct a hearing for the purpose of receiving oral argument. A hearing will generally be conducted only after the issues involved in the proceeding have been delineated and any written material which the Office of Administrative Review has requested as a supplement to the Statement of Objections, referred to in § 205.194, or the Response, referred to in § 205.195, has been submitted. The procedures specified in § 205.172 shall generally apply to such hearings.

(c) The provisions of § 205.199(f) above with respect to written submissions shall also apply to hearings convened pursuant to this section.

§ 205.199B Issuance of Remedial Order.

(a) After considering all information received during the proceeding, the di-

rector of the Office of Administrative Review or his designee shall issue a final Remedial Order. The Remedial Order may adopt the findings and conclusions contained in the Proposed Remedial Order or may modify or rescind any such finding or conclusion on the basis of a determination that the finding or conclusion is erroneous in fact or law or is arbitrary or capricious. The Office of Administrative Review may also reach the determination that no Remedial Order should be issued. Every determination issued pursuant to this section shall include a statement which sets forth the relevant facts and legal basis supporting the determination.

(b) The ERA shall serve a copy of any final Remedial Order upon the person to whom it is directed, any person who was served a copy of the Proposed Remedial Order, the person who issued the Proposed Remedial Order, and any other person readily identifiable by the ERA as one who is aggrieved by the Order. A copy of each Remedial Order, modified to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will also be placed on file in the Public Docket Room described in § 303.13.

(c) A Remedial Order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

§ 205.199C Appeal of Remedial Order.

(a) An Appeal may be filed from the following Remedial Orders:

(1) Those issued prior to the effective date of these regulations and pursuant to a NOPV issued prior to October 1, 1977; and

(2) Those issued pursuant to NOPV's or Proposed Remedial Orders issued subsequent to October 1, 1977;

(b)(1) An Appeal as described in (a)(1) shall be filed with and decided by the National Office of Administrative Review in accord with Subpart H of this part. Any such Appeal must be filed within 30 days of service of the Order. In any such proceeding, the Remedial Order shall be sustained unless the appellant demonstrates that the Order was erroneous in fact or law or was arbitrary or capricious.

(2) An Appeal as described in (a)(2) shall be instituted by the recipient notifying the National Office of Administrative Review within 30 days of service of the Order that it wishes to contest the Order.

(c) The Office of Administrative Review shall immediately advise the Federal Energy Regulatory Commission of its receipt of a notice described in (b)(2).

(d) The Office of Administrative Review may, on a case by case basis, set reasonable time limits for the Federal Energy Regulatory Commission to complete action on a proceeding referred to in (c).

(e) In order to exhaust administrative remedies with respect to a Remedial Order proceeding, a party must file a timely Appeal pursuant to the procedures set forth in this section and await an order granting or denying the Appeal.

§ 205.199D Interim Remedial Order for Immediate Compliance.

(a) Notwithstanding the provisions of §§ 205.191 through 205.199C, the ERA may issue an Interim Remedial Order for Immediate Compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 205.191 through 205.199C.

(b) An Interim Remedial Order for Immediate Compliance shall be served promptly upon the person against whom such Order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the Remedial Order for Immediate Compliance, including the findings required by paragraph (a) of this section.

(c) The ERA may rescind or suspend an Interim Remedial Order for Immediate Compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a Notice of Probable Violation issued under § 205.191.

(d) If at any time in the course of a proceeding commenced by a Notice of Probable Violation the criteria set forth in paragraph (a) of the section are satisfied, the ERA may issue an Interim Remedial Order for Immediate Compliance, even if the 10-day period for reply specified in § 205.191(b) has not expired.

(e) At any time after an Interim Remedial Order for Immediate Compliance has become effective, the order may be referred to the Department of Justice for appropriate action in accordance with Subpart P.

(f) Any person who is aggrieved by an Interim Remedial Order for Immediate Compliance may contest the basis for the order by filing a Notice of Objection which meets the requirements of § 205.193 within 10 days of the issuance of the Interim Order. The person objecting to the issuance of the Interim Remedial Order for Immediate Compliance shall follow the procedures specified in §§ 205.192 through 205.199C of this subpart to establish that the Interim Order is erroneous in fact or law or is arbitrary or capricious.

(g) Any aggrieved person who fails to file a timely Notice of Objection to the issuance of an Interim Remedial Order shall be deemed to consent to issuance of the Interim Order in final form. Under those circumstances, the Interim Order shall as a matter of course be made a permanent Order of the ERA.

(h) After considering all information received during a proceeding convened pursuant to a Notice of Objection described in (f), the Director of the Office of Administrative Review or his designee shall determine whether the Interim Order should be made permanent, should be modified, or should be rescinded. The general procedures in §§ 205.192 through 205.199D of this subpart shall apply to any such determination.

(i) Any party aggrieved by an Interim Order for Immediate Compliance may file an application for a temporary stay or an application for a stay of that Order with the National Office of Administrative Review. The Office of Administrative Review shall decide on an application for a temporary stay within 48 hours of receipt of the application and on an application for stay within 10 working days of receipt of the application.

(1) Any party whose application for a stay of an Interim Remedial Order is denied may appeal that denial to the Federal Energy Regulatory Commission. The Office of Administrative Review may, on a case by case basis, set reasonable time limits for the Commission to complete action on any such appeal.

(2) After reaching a decision on an appeal involving an application for stay, the Federal Energy Regulatory Commission shall refer the matter back to the Office of Administrative Review for proceedings on the merits of the Interim Remedial Order pursuant to (f) through (h) above.

(j)(1) An Appeal from a Remedial Order for Immediate Compliance issued pursuant to § 205.199D(h) must be filed within 30 days of service of the Order.

(2) If a person who receives a Remedial Order for Immediate Compliance issued pursuant to a proceeding as to which no NOPV had been issued as of October 1, 1977, or issued pursuant to a NOPV issued on or after October 1, 1977, wishes to contest the Remedial Order, that person shall so notify the National Office of Administrative Review in accordance with the procedures set forth in § 205.199C(b)(2), and the procedures of § 205.199C (c) and (d) shall apply to the Appeal.

(3) In order to exhaust administrative remedies with respect to a Remedial Order for Immediate Compliance proceeding, a party must file an Appeal pursuant to the procedures set forth in this section and await an Order granting or denying the Appeal.

§ 205.199E Notice of Proposed Disallowance, Proposed Order of Disallowance, and Order of Disallowance.

(a) The ERA shall begin a proceeding under this section by issuing a Notice of Proposed Disallowance pursuant to the provisions of Parts 205 and 212 of this chapter.

(b) Within 10 days of service, the person upon whom the Notice of Proposed Disallowance is served may file a reply with the ERA office that issued the Notice. The ERA may extend the 10-day period for good cause shown.

(c) The reply shall set forth all relevant facts pertaining to the matter that is the subject of the Notice, and be signed by the person filing it.

(d) The reply shall include a discussion of all relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE or its predecessor agencies.

(e) A request for a conference regarding the Notice should be included in the reply, or made as soon as possible after the reply is filed. A request for a conference must conform to the requirements of § 205.171.

(f) If a reply has not been filed with the ERA within the 10-day or extended period provided, the recipient shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the Notice of Proposed Disallowance, and the Notice shall become a Proposed Order of Disallowance.

(g) After consideration of any timely reply filed, the ERA may adopt, modify, or rescind the Notice of Proposed Disallowance and issue a Proposed Order of Disallowance. The Proposed Order shall set forth the relevant facts and legal basis for the conclusions reached therein.

(h) The procedures specified in §§ 205.192 through 205.199C shall be applicable to Proposed Orders of Disallowance, and shall govern the issuance of Orders of Disallowance and Appeals from Orders of Disallowance.

(i) An Order of Disallowance shall be effective upon issuance.

(j) An Order of Disallowance may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

§ 205.199F Ex Parte Communications.

(a) No person who is not employed or otherwise supervised by the Office of Administrative Review shall submit ex parte communications to the Director or any person employed or otherwise supervised by the Office with respect to any matter involved in Remedial Order or Order of Disallowance proceedings.

(1) Ex parte communicatons includes any ex parte oral or written communications relative to the merits of a Proposed Remedial Order, Interim Remedial Order for Immediate Compliance, or Proposed Order of Disallowance proceeding pending before the Office of Administrative Review. The term shall not, however, include requests for status reports, inquiries as to procedures, or the submission of statistical or technical data or reports containing proprietary or confidential information requested after notice to all parties by a person employed or otherwise supervised by the Office of Administrative Review.

(b) If any communication occurs that violates the provisions of this section, the Office of Administrative Review shall take appropriate action to mitigate the adverse impact to any party of the ex parte contact.

§ 205.199G Extensions of Time; Interim and Ancillary Orders.

The Director of the Office of Administrative Review or his designee may permit any document or submission referred to in this subpart to be filed within a time period different from that specified. The Director or his designee may also issue any interim or ancillary Orders or make any rulings or determinations which are deemed necessary to ensure that the proceedings specified in this Subpart are conducted in an appropriate manner and are not unduly delayed.

§ 205.199H Actions Not Subject to Administrative Appeal.

A Notice of Probable Violation, Notice of Proposed Disallowance, Propsed Remedial Order or Interim Remedial Order for Immediate Compliance issued pursuant to this subpart shall not be an action of which there may be an administrative appeal pursuant to Subpart H. In addition, a determination by the Office of Administrative Review that a Remedial Order or a Remedial Order for Immediate Compliance should not be issued shall not be appealable pursuant to Subpart H. Further, any Remedial Order which is first issued as a Proposed Remedial Order pursuant to a NOPV issued prior to October 1, 1977, or any Order of Disallowance which is first issued as a Proposed Order of Disallowance pursuant to a Notice of Proposed Disallowance issued prior to October 1, 1977, shall not be appealable pursuant to Subpart H.

§ 205.199I Remedies.

(a) A Remedial Order, a Remedial Order for Immediate Compliance, an Order of Disallowance, or a consent order may require the person to whom it is directed to roll back prices, to make refunds equal to the amount (plus interest) charged in excess of those amounts permitted under Part 212, to make appropriate compensation to third persons for administrative expenses of effectuating appropriate remedies, and to take such other action as the ERA determines is necessary to eliminate or to compensate for the effects of a violation or any cost disallowance pursuant to §§ 212.83 or 212.84. Such action may include a direction to the person to whom the Order is issued to make refunds directly to any purchasers of the products involved, notwithstanding that those purchasers obtained such products from an intermediate distributor of such person's products, and may require as part of the remedy that the person to whom the Order is issued maintain his prices at certain designated levels, notwithstanding the presence or absence of other regulatory controls on such person's prices.

(b) The ERA may, when appropriate, issue Orders ancillary to a Remedial Order, Remedial Order for Immediate Compliance, Order of Disallowance, or consent order requiring that a direct or indirect recipient of a refund pass through, by such means as the ERA deems appropriate, including those described in paragraph (a) of this section, all or a portion of the refund, on a pro rata basis, to those customers of the recipient who were adversely affected by the initial overcharge.

§ 205.199J Consent Orders.

(a) Notwithstanding any other provision of this subpart, the ERA may at any time resolve an outstanding compliance investigation or proceeding, or a proceeding involving the disallowance of costs pursuant to § 205.199E of this subpart, with a consent order. A consent order shall be the exclusive administrative means, besides a Remedial Order or Order of Disallowance, for resolving compliance proceedings in which the ERA has issued a Notice of Probable Violation, a Proposed Remedial Order, a Notice of Proposed Disallowance or a Proposed Order of Disallowance, and a violation or overrecovery has been found. A consent order must be signed by the person to whom it is issued, or a duly authorized representative, and must indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that ERA regulations have been violated, nor need it constitute a finding by the ERA that such person has violated ERA regulations. A consent order shall, however, set forth the relevant facts which form the basis for the order.

(b) A consent order is a final order of the ERA having the same force and effect as a Remedial Order issued pursuant to § 205.199B or an Order of Disallowance issued pursuant to § 205.199E, and may require one or more of the remedies authorized by § 205.199I and § 212.84(d)(3). A consent order becomes effective no sooner than 30 days after publication under paragraph (c) below, except that the ERA may make a consent order effective immediately if expressly deemed necessary in the public interest. However, all consent orders involving sums of less than $500,000 in the aggregate, excluding penalties, will be effective when signed both by the person to whom it is issued and the ERA, and will not be subject to the provisions of paragraph (c) unless the ERA determines otherwise. A consent order shall not be appealable pursuant to the provisions of § 205.199C or § 205.199D and Subpart H, and shall contain an express waiver of such appeal or judicial review rights as might otherwise attach to a final order of the ERA.

(c) When a proposed consent order has been signed, both by the person to whom it is issued and the ERA, the ERA will publish notice of such proposed consent order in the FEDERAL REGISTER and in a press release to be issued simultaneously therewith. The FEDERAL REGISTER notice and the press release will state at a minimum the name of the company concerned, a brief summary of the consent order and other facts or allegations relevant thereto, and the address and telephone number of the ERA office at which copies of the proposed consent order will be available free of charge, the address to which comments on the proposed consent order will be received by the ERA, and the date by which such comments should be submitted, which date will not be less than 30 days from publication of the FEDERAL REGISTER notice. After the expiration of the comment period the ERA may withdraw its agreement to the consent order, attempt to negotiate a modification of the consent order, or issue the consent order as proposed. The ERA will publish in the FEDERAL REGISTER, and by press release, notice of any action taken on a proposed consent order and such explanation of the action taken as deemed appropriate. The provisions of this paragraph shall be applicable notwithstanding that a consent order may have been made immediately effective pursuant to paragraph (b) of this section (except in cases where the consent order involves sums of less than $500,000 in the aggregate, excluding penalties).

(d) At any time and in accordance with the procedures of Subpart J, a consent order may be modified or rescinded, upon petition by the person to whom the consent order was issued, and may be rescinded by the ERA upon discovery of new evidence which is materially inconsistent with evidence upon which the ERA's acceptance of the consent order was based. Modifications of a consent order which is subject to public comment under the provisions of paragraph (c) of this section, which in the opinion of the ERA significantly change the terms or the impact of the original order, shall be republished under the provisions of that paragraph.

(e) Notwithstanding the issuance of a consent order, the ERA may seek civil or criminal penalties or compromise civil penalties pursuant to Subpart P concerning matters encompassed by the consent order, unless the consent order by its terms expressly precludes the ERA from so doing.

(f) If at any time after a consent order becomes effective it appears to the ERA that the terms of the consent order have been violated, the ERA may refer such violations to the Department of Justice for appropriate action in accordance with Subpart P.

[FR Doc. 78-956 Filed 1-10-78; 1:03 pm]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommoda commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	6½	Jan. 10, 1978.
New York	6½	Jan. 9, 1978.
Philadelphia	6½	Jan. 20, 1978.
Cleveland	6½	Do.
Richmond	6½	Jan. 13, 1978.
Atlanta	6½	Jan. 16, 1978.
Chicago	6½	Jan. 9, 1978.
St. Louis	6½	Jan. 13, 1978.
Minneapolis	6½	Jan. 10, 1978.
Kansas City	6½	Do.
Dallas	6½	Jan. 13, 1978.
San Francisco	6½	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	7	Jan. 10, 1978.
New York	7	Jan. 9, 1978.
Philadelphia	7	Jan. 20, 1978.
Cleveland	7	Do.
Richmond	7	Jan. 13, 1978.
Atlanta	7	Jan. 16, 1978.
Chicago	7	Jan. 9, 1978.
St. Louis	7	Jan. 13, 1978.
Minneapolis	7	Jan. 10, 1978.
Kansas City	7	Do.
Dallas	7	Jan. 13, 1978.
San Francisco	7	Do.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	7½	Jan. 10, 1978.
New York	7½	Jan. 9, 1978.
Philadelphia	7½	Jan. 20, 1978.
Cleveland	7½	Do.
Richmond	7½	Jan. 13, 1978.
Atlanta	7½	Jan. 16, 1978.
Chicago	7½	Jan. 9, 1978.
St. Louis	7½	Jan. 13, 1978.
Minneapolis	7½	Jan. 10, 1978.
Kansas City	7½	Do.
Dallas	7½	Jan. 13, 1978.
San Francisco	7½	Do.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest

by, the United States or any agency thereof are:

	Rate	Effective
Federal Reserve Bank of:		
Boston	9½	Jan. 10, 1978.
New York	9½	Jan. 9, 1978.
Philadelphia	9½	Jan. 20, 1978.
Cleveland	9½	Do.
Richmond	9½	Jan. 13, 1978.
Atlanta	9½	Jan. 16, 1978.
Chicago	9½	Jan. 9, 1978.
St. Louis	9½	Jan. 13, 1978.
Minneapolis *	9½	Jan. 10, 1978.
Kansas City	9½	Do.
Dallas	9½	Jan. 13, 1978.
San Francisco	9½	Do.

(12 U.S.C. 248 (i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, January 23, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-2448 Filed 1-30-78; 8:45 am]

[7650-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket Nos. 8733-o and 8973-o]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

National Housewares, Inc., et al. and Emdeko International, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: This order, among other things, requires a Salt Lake City, Utah distributor of household products to cease engaging in package selling, as it is defined in the ordend to cease encouraging, advising or assisting others to engage in package selling. Additionally, the firm is required to maintain prescribed records for a period of 5 years.

DATES: Complaints, March 13, 1967, June 21, 1974; Final Order, November 18, 1977.*

FOR FURTHER INFORMATION CONTACT:

William A. Arbittman, 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 National Housewares, Inc., a corporation, and Edward J. Gilson, individually and as an officer of said corporation and Emdeko International, Inc., a corporation, and Anthony J. Wanlass, individually and as an officer of said corporation. The prohibited trade practices and/or corrective actions as codified under 16 CFR 13, are as follows:

Subpart—Aiding, Assisting and Abetting Unfair or Unlawful Act or Practice: § 13.290 Aiding, assisting and abetting unfair or unlawful act or practice.

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-45(c) Complaints; 13.533-45(e) Correspondence. 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: § 13.1440 Identity; § 13.1513 Operations generally.—Goods: § 13.1625 Free goods or services; § 13.1663 Individual's special selection or situation; § 13.1705 Prize contests; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys.—Prices: § 13.1790 Coupons, credit vouchers, etc., of specified value.—Promotional Sales Plans; § 13.1830 Promotional sales plans., Subpart—Neglecting, Unfairly or Deceptively to Make Material Disclosure: § 13.1855 Identity; § 13.1883 Prize contests; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.1925 Coupon, certificate, check, credit voucher, etc., deductions in price; § 13.1928 Customer connection or action; § 13.1955 Free goods; § 13.2020 Premium or premium conditions; § 13.2027 Prize contests; § 13.2063 Scientific or other relevant facts.

(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 having been heard by the Commission upon the appeal of respondents and complaint 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 having determined to sustain the initial decision with certain modifications:

It is Ordered, That the initial decision of the administrative law judge, pages 1-74, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent modified or otherwise indicated in the accompanying Opinion.

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

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

ORDER

I

For purposes of this order the following definitions shall apply:

A. "Package selling" means:

(1) Soliciting a consumer by telephone, mail, or other means of direct communication to attend a sales presentation; or

(2) Offering a gift, premium, prize, coupon, or a chance to secure any of the above, in connection with a solicitation to attend a sales presentation; or

(3) Representing that a survey or promotion is being undertaken, or that the consumer is invited to participate in an advertising or promotional program, unless no offer of sale is made to the consumer to whom such representation is made; or

(4) Using any artifice or device, to solicit a consumer for the purpose of making a sales presentation, which has a tendency or capacity to lead a consumer to conclude that there is any other reason for the contact with him; or

(5) Offering or selling three or more unrelated products for a single price.

Provided, That package selling shall not include the use of any of the above practices by regular multi-line retail establishments, such as department stores. *Provided further*, That use of the practices enumerated in subparagraphs (1), (2), or (5) shall not constitute package selling if each solicitation, offer or sales presentation comprehended by such practices is immediately preceded by a clear and conspicuous disclosure and if a cooling-off period is given in connection with any sale that may follow.

B. "Clear and conspicuous disclosure" means the statement "We would like the opportunity to sell our products to you," in print at least as large and prominent as the largest and most prominent used in any other portion of the written material with which it appears or, in oral presentations, in speech at least as clear and distinct as the most clear and distinct speech used in any other portion of the oral presentation with which it is given.

C. To give a "cooling-off period" means to fulfill all of the obligations established by 16 CFR Part 429 as if the sale were a door-to-door sale, as defined by that part, whether it is or not.

D. "Encouraging or advising" includes providing sales materials, guidance, advice or other similar assistance.

E. "Assisting" includes providing products by sale, consignment or any other means of transfer.

*Copies of the Complaint, Initial Decision, Opinion and Final Order filed with the original document.

F. "Sale," in any of its grammatical forms, includes leases and all other transfers of goods and services.

II

It is Ordered, That respondents Emdeko International, Inc., a corporation, its successors and assigns, and its officers; Edward J. Gilson, individually and as an officer of said corporation; and Anthony J. Wanlass, individually and as an officer of said corporation; and the agents, representatives and employees of the foregoing respondents, directly or through any corporation, subsidiary, division or other device, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist in any manner from:

(1) Encouraging or advising any other person to engage in package selling; or
(2) Engaging in package selling; or
(3) Assisting any other person to engage in package selling.

Provided, That it shall be a defense to a charge of assisting another in package selling in violation of this Paragraph of the Order if respondents establish that they ceased doing business for one year with a person engaged in package selling within thirty (30) days of having knowledge that such person engaged in such conduct.

III

It is further Ordered, That the corporate respondent shall deliver, or cause to be delivered, a copy of this order to its divisions, distributors, dealers, retailers, and franchisees.

IV

It is further Ordered, That respondents shall, for a period of five (5) years after receipt of consumer, Better Business Bureau, or consumer or law enforcement agency complaints, comments, and inquiries concerning respondents' activities or the activities of their distributors, dealers, retailers, or franchisees, retain records of all such complaints or inquiries, and copies of any written correspondence and complete summaries of telephone conversations relating thereto. These records shall be available, at their request and upon reasonable advance notice, to representatives of the Federal Trade Commission during respondents' regular business hours.

V

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

VI

It is further Ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of 10 years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilites in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VII

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

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-2600 Filed,1-30-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart B—Eligibility

Eligibility of Individuals Residing in Publicly Operated Community Residences Serving No More Than 16 Residents

AGENCY: Social Security Administration, HEW.

ACTION: Interim regulation.

SUMMARY: The interim regulation provides that the termublic institution" does not include publicly operated community residences which serve no more than 16 residents. The authority for this rule is section 1611(e)(1)(C) of the Social Security Act, as added by section 505(a) of Pub. L. 94-566, effective October 1; 1976. Thus, individuals who are residing in publicly operated community residences which serve no more than 16 residents, and who are otherwise qualified, are eligible for supplemental security income (SSI) benefits.

This amendment to the Act encourages the development of small residential alternatives to care in large institutional settings for persons who would benefit from a living arrangement closely approximating independent living in a community setting while, at the same time receiving supportive care and some degree of supervision. These provisions are designed to acclimate residents to community living and to ease the transition into an independent living situation.

EFFECTIVE DATE: This interim regulation shall be effective on January 31, 1978.

COMMENTS: Comments must be received on or before May 1, 1978.

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

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

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: Prior to the enactment of section 505(a) of Pub. L. 94-566, Subparagraph (A) of section 1611(e)(1) of the Act provided only one exception to the general rule that no person shall be eligible to receive SSI benefits for any month throughout which the individual is an inmate of a public institution. The sole exception, subparagraph (B) of § 1611(e)(1), provides that an individual who is throughout a month in a public institution may be eligible for SSI benefits if the institution is receiving payments under a State plan approved under Title XIX (Medicaid) on his or her behalf, assuming all other SSI eligibility criteria are met. In this situation, the standard payment amount is $25 for each full month of such institutionalization. This amount is then subject to reduction for any countable income which the individual may have. However, if the public institution is not receiving Title XIX (Medicaid) payments on his or her behalf, the individual would be ineligible for

SSI benefits. These statutory provisions are reflected in Regulations No. 16, § 416.231 of Subpart B of Title 20 of the Code of Federal Regulations.

With the enactment of section 505(a) of Pub. L. 94-566, a new subparagraph (C) is added to section 1611(e)(1) of the Act which provides a second exception to subparagraph (A). It states that as used in subparagraph (A), the term "public institution" does not include publicly operated community residences which serve no more than 16 residents. Accordingly, we have amended § 416.231 by adding new paragraph (a)(4) to state that for purposes of § 416.231 the term public institution does not include publicly operated community residences which serve no more than 16 residents.

In developing a definition for "publicly operated community residences which serve no more than 16 residents", we looked to the wording of the statute. We also considered the background materials contained in the subcommittee hearings on the Keys Amendment and the Senate Finance Committee Report on H.R. 10210. (See Hearings on H.R. 10210 Before the Subcomm. on Public Assistance of the House Comm. on Ways and Means, 94th Cong., 2nd Sess. (1976). Also see S. Rep. No. 1265, 94th Cong., 2nd Sess. 29 (1976).) The central theme in these materials is the underlying philosophy that community residences provide a desirable alternative to large institutions because they can provide not only life sustaining services of food and shelter, but also can encourage personal independence in an atmosphere of mutual acceptance and support for emotional growth and life enrichment activities. Based on this information, the critical factors used in developing a definition were size, location, and purpose. We have also considered the problems which can arise because of fluctuating occupancy levels in this type of facility. We believe the most feasible and equitable way to meet the intent of the legislation is to look to the number of residents the facility is designed or planned to serve. This is in keeping with the intent of the statute which envisions a 16 resident capacity as an outer limit applicable to community residences. The test is whether or not community residences are designed or planned, according to their specifications, to house and provide services for no more than 16 residents.

A publicly operated community residence, while not considered a "public institution" for purposes of making residents ineligible for SSI under section 1611(e)(1)(A) of the Act, is nevertheless an institution, and as such is expected to provide some services beyond food and shelter (§ 416.231(b)(1)). Thus, a publicly operated community residence must make available some other services such as social services, or help with personal living activities, or training in socialization and life skills. Such services may also include occasional or incidental medical or remedial care. It is intended that these services will provide the individual with the skills necessary to return to community living.

Thus, we have amended § 416.231 by adding a new paragraph (b)(6)(i) to provide the definition for the term "publicly operated community residence which serves no more than 16 residents." The definition is designed to assure that publicly operated community residences provide the desired living situation.

To further insure clarity of the definition, we have added a new paragraph (b)(6)(ii) to § 416.231. It describes those public facilities which are not considered community residences even if their accommodations are for 16 or fewer residents. Excluded are educational or vocational training institutions, correctional or holding facilities, medical treatment facilities, and residential facilities located on the grounds of or immediately adjacent to any large institution or multiple-purpose complex.

Educational and vocational training institutions are designed to provide individuals with approved, accredited, or recognized educational or training programs preparatory to gainful employment. A publicly operated community residence is designed to acclimate its residents to community living, thereby easing their transition into independent living situations. Since each differs in its primary goal, educational and vocational training institutions cannot qualify as publicly operated community residences. Even though individuals residing in educational or vocational training institutions would not be eligible for SSI benefits under this proposed rule, such individuals may be eligible for SSI benefits under § 416.231(b)(3). This is so because § 416.231(b)(3) provides that a person is not considered an "inmate of a public institution" when he or she is in a public educational or vocation training institution for purposes of securing educational or vocational training.

Correctional or holding facilities are part of the criminal justice system, and medical treatment facilities primarily focus on providing medical or remedial care. Since neither institution (described in the preceding sentence) is designed to provide the desired living arrangement envisioned by the statute, they are excluded from the definition of publicly operated community residences.

Residential facilities located on or adjacent to a larger institution or multiple purpose complex are excluded because they are an integral part of the larger institution. Therefore, such a living arrangement would not be considered as an alternative to institutional living. Moreover, a facility so situated is really not part of the community and thus could not as readily accomplish the intended goal.

As a matter of interest, it should be noted that section 505(d) of Pub. L. 94-566 amends section 1616(e) of the Act. It provides in part that, effective October 1, 1977, each State shall establish one or more State or local authorities to establish and enforce standards for any category of institutions, foster homes, or group living arrangements in which, as determined by the State, a significant number of SSI beneficiaries are residing or are likely to reside. Thus, if a State determines that a publicly operated community residence houses or will house a significant number of SSI beneficiaries, such a facility may be subject to standards set by the State or local authority. This provision of the law is reflected in 45 CFR Part 229, which is published in this edition of the FEDERAL REGISTER.

Since section 505(a) of Pub. L. 94-566, was effective October 1, 1976, operating personnel have been alerted to this change and the need to process such cases under the newly enacted legislation. This action was necessary to insure prompt recognition and equitable handling of these cases, on an interim basis, until final regulations are in effect. This amendment to the regulations is being published with interim effectiveness because it is a substantive rule which provides an exclusion to the definition of public institutions as required by section 505(a) of Pub. L. 94-566. Thus, the Notice of Proposed Rule Making is being dispensed with because a delay in implementing this amendment would be impractical, unnecessary, and contrary to the public interest (5 U.S.C. 553(b)(B)).

The interim regulation is to be issued under the authority contained in sections 1102, 1611, and 1631 of the Social Security Act as amended, 49 Stat. 647, as amended, 86 Stat. 1466 and 1475; 42 U.S.C. 1302, 1382(e) and 1383(d)(1).

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB circular A-107.

Dated: January 9, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: January 20, 1978.

HALE CHAMPION,

Acting Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

Section 416.231 is amended by revising paragraph (a)(1) and adding paragraphs (a)(4), (b)(6)(i), and (b)(6)(ii) to read as follows:

§ 416.231 Limitation on eligibility due to institutional status.

(a) *General.* (1) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, no person shall be an eligible individual or eligible spouse for purposes of title XVI of the Act with respect to any month if throughout such month the person is an inmate of a public institution.

* * * * *

(3) [Reserved]

(4) Effective October 1, 1976, the term "public institution", as used in this section, does not include a publicly operated community residence which serves no more than 16 residents. Where it is determined that a community residence is not publicly operated such residence is not a public institution as defined in § 416.231(b)(2) and this section will not apply.

(b) *Definitions.* For purposes of this part the following definitions shall apply:

* * * * *

(6)(i) The term "publicly operated community residence which serves no more than 16 residents" (see § 416.231(a)(4)) means:

(*a*) It must be publicly operated as defined in § 416.231(b)(2); and

(*b*) It must be designed and planned to serve no more than 16 residents, or the plan and design was changed to serve no more than 16 residents; and

(*c*) It must be serving 16 or fewer residents; and

(*d*) It must make available some services beyond food and shelter such as social services, or help with personal living activities, or training in socialization and life skills; occasional or incidental medical or remedial care may also be provided (as defined in 45 CFR 228.1).

(ii) Excluded from the definition of "publicly operated community residences" are the following facilities, even if their accommodations are for 16 residents or less:

(*a*) Residential facilities located on the grounds of or immediately adjacent to any large institution or multiple-purpose complex; and

(*b*) Educational or vocational training institutions that primarily provide an approved or accredited or recognized program to some or all of the individuals residing within it; and

(*c*) Correctional or holding facilities which provide for individuals whose personal freedom is restricted because of a court sentence to confinement (prisoners), court ordered holding (material witness, juvenile) or a pending disposition of charges or status (individuals who have been arrested or detained); and

(*d*) Medical treatment facilities (hospitals and skilled nursing facilities, see 42 U.S.C. 1395x and intermediate care facilities, see 42 U.S.C. 1396d) which provide medical or remedial care on an inpatient basis.

[FR Doc. 78-2461 Filed 1-30-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Amprolium

AGENCY: Food and Drug Administration

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for use of a higher concentration amprolium supplement in the feed of calves.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065, filed a supplemental NADA (12-350V) increasing the upper concentration limit for amprolium permitted in calf supplements from 0.5 to 1.25 percent. The proper amount of this supplement is either top-dressed on or thoroughly mixed in the daily feed ration of calves.

This independent action has not required a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety and effectiveness.

In accordance with the Freedom of Information Regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 558 is amended in § 558.55 by revising the introductory text of paragraph (e)(1) and paragraph (e)(1)(i)(*b*) and (ii)(*b*), to read as follows:

§ 558.55 Amprolium.

* * * * *

(e) *Conditions of use.*—(1) *Calves.* It is top-dressed on or thoroughly mixed in the daily feed ration as follows:

(i) * * *

(*b*) *Limitations.* Administer from a supplement containing from 0.05 to 1.25 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) * * *

(*b*) *Limitations.* Administer from a supplement containing from 0.05 to 1.25 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.

* * * * *

Effective date. January 31, 1978.

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

Dated: January 23, 1978.

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

[FR Doc. 78-2568 Filed 1-30-78; 8:45 am]

[4110-03]

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0433]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Dating Periods for Specific Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for dating periods for specific products. This amendment will explicitly provide manufacturers to establish for their products, and also label their products with extended dating periods, after approval of the Director, Bureau of Biologics.

EFFECTIVE DATE: January 31, 1978.

ADDRESS: Office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: The biologics regulations, under § 610.53 (21 CFR 610.53), prescribe dating periods for all licensed biological products. The times prescribed in the regulation apply to types of licensed products, rather than each manufacturer's brand of each product. The dating period for a particular product type is the period during which all products of that type are expected to yield their specific results and retain their safety, purity, potency, and effectiveness. Under §§ 610.60(a)(4) and 610.61(d) (21 CFR 610.60(a)(4) and 610.61(d)), the labeling for all biological products includes a statement of their expiration date.

However, a manufacturer may submit to the Bureau of Biologics stability data for its particular brand and seek an amendment to its product license to permit an exemption or modification of the requirements for that product prescribed under § 610.53.

For example, Merck Sharp & Dohme, Division of Merck & Co., Inc., citing improvements in manufacturing, has submitted stability data collected at various temperatures and has applied for an amendment to its product license for Measles Virus Vaccine, Live, Attenuated to permit a 2-year dating period. The Commissioner of Food and Drugs finds that the data submitted by Merck support the requested extension. Measles Virus Vaccine, Live, Attenuated produced by other licensed manufacturers shall continue to provide for a maximum of 1 year of storage at the prescribed temperature after issuance, in accordance with § 610.53. Vaccine produced by Merck Sharp & Dohme under an amended license will be labeled with the 2-year period. A summary of the Merck data supporting an extended dating period is on public display in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The Commissioner is amending § 610.53 to explicitly provide for such exemptions or modifications, with the approval of the Director of the Bureau of Biologics in the form of an approved license amendment. A similar provision for modification of shipping temperatures is currently provided in § 600.15 (21 CFR 600.15).

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 610 is amended in § 610.53 by designating the existing text as paragraph (a) *General* and adding new paragraph (b) to read as follows:

§ 610.53 Dating periods for specific products.

(a) *General.* * * *

(b) *Exemptions.* Exemptions or modifications shall be made only upon written approval, in the form of an amendment of the product license, issued by the Director, Bureau of Biologics.

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for this amendment of § 610.53 because it does not impose an additional duty or burden on any person, but rather relieves an unnecessary restriction and permits published regulations to remain consistent with approved license provisions.

Effective date: This amendment shall be effective on January 31, 1978.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

JANUARY 25, 1978.

[FR Doc. 78-2588 Filed 1-30-78; 8:45 am]

[4210-01]

Title 24—Department of Housing and Urban Development

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

[Docket No. R-77-109]

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

PART 1932—PROTECTIVE DEVICE REQUIREMENTS

Reduction of Certain Requirements

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule amends current regulations pertaining to protective device requirements under Federal Crime Insurance Program. The amendments provide more flexible standards for compliance at less cost to applicants, authorize pro rata return of premiums under certain conditions, and modify inspection requirements in order to serve better the needs of small businesses.

EFFECTIVE DATE: March 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James M. Rose, Jr., Assistant Administrator for Urban Property Insurance—Riot and Crime, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6555.

SUPPLEMENTARY INFORMATION: On May 5, 1977, the Department published a proposed rule (42 FR 22900) to amend the protective device requirements set forth in 24 CFR Part 1932. The amendments grew out of the GAO report, "The Federal Crime Insurance Program: How it Can be Made More Effective" and the Department's reevaluation of the program.

Since publication of the proposed rule, the Department has received comments noting that the provisions of § 1931.7 frustrate the objectives of the proposed amendments to Part 1932. Section 1931.7(c) imposes a penalty on an insured who wishes to change insurance coverage on a date other than an anniversary date. Section 1931.7(c) is amended, therefore, to permit changes in the coverage or limits of a policy at any time and to provide for a pro rata return of a premium whenever a policy is cancelled to change its coverage or limits. Additionally, § 1931.2 is amended so that it conforms with the new provisions of Part 1932. The Agency for the reasons stated finds that notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest and has decided to publish the amendments to §§ 1931.7 and 1931.2 as a final regulation.

Several errors of a nonsubstantive nature were discovered after publication of the proposed rule and are corrected now. The amendment of § 1932.4 was set forth in the regulation but was not discussed in the Preamble. Paragraph (h) of § 1932.5 was labeled incorrectly and should read § 1932.5(g).

All comments were considered carefully in the development of the final rule. A discussion of the comments and the action taken by the Department is presented.

DISCUSSION OF COMMENTS

It was suggested that changes in protective device requirements be made applicable to applicants with annual gross receipts up to $500,000 rather than those to $300,000. The purpose of the amendment is to increase the affordability of commercial crime insurance for those whose relatively low gross receipts have made compliance with existing requirements difficult and inordinately costly. Approximately three-fourths of the current commercial insureds will benefit from these regulations and the Department believes that at the present time the $300,000 limit adequately addresses the issue of affordability. Therefore, the suggestion was not adopted.

It was noted that, because applicants for commercial burglary insurance

now receive policies upon the basis of a mandatory preinspection to determine compliance with protective device requirements, there is no longer a need for applicants to certify that their premises meet the protective device standards. Therefore, § 1931.2, paragraph (a)(2) has been deleted and the remaining paragraphs renumbered. This change reflects previous program changes and makes the regulations consistent both as to commercial and residential crime insurance policies.

It was noted that some existing commercial insureds whose business has prospered under the protection of the Federal Crime Insurance Program are from time to time compelled to move to new premises in order to accommodate their supplies of merchandise or to improve their facilities. It is necessary for such insureds to be able to make such moves without having their insurance coverage interrupted at such critical times. It is not always possible for the new premises to be inspected prior to the move, and, in any event, there would not always be adequate time for an insured to correct deficiencies revealed in the inspection. Therefore, there has been added to the proposed regulation an additional paragraph (h) at the end of § 1932.5 which gives a newly moved insured 30 days from the date on which he is notified of a protection device deficiency to make the necessary changes to his security devices, thus enabling him to avoid an interruption in coverage.

Editorial changes have been made to improve clarity, readability, and organization.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 7th Street SW., Washington, D.C. 20410.

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

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

§ 1931.2 [Amended]

1. Present § 1931.2 is amended to delete paragraph (a)(2) thereof and paragraphs (a) (3), (4), and (5) are renumbered to read paragraphs (a) (2), (3), and (4).

2. Present § 1931.7, paragraph (c), is amended to read as follows:

§ 1931.7 Cancellations, modifications, and renewals of coverage.

(c) Changes in coverage and limits of coverage may be made at any time upon the submission of a new application with the applicable semiannual premium. Return of premium on the superseded canceled policy shall be on a pro rata basis when such cancellation is made for the purpose of changing address or coverage or limits of coverage. Short-rate cancellation procedures shall be applicable to any other cancellation during the term of any policy.

* * * * *

3. Present §§ 1932.3a, 1932.3b, and 1932.3c are deleted and § 1932.5 is added to read as follows:

§§ 1932.3a, 1932.3b and 1932.3c [Deleted]

§ 1932.5 Inspection of Commercial Premises.

(a) All premises for which an application for commercial crime insurance against burglary losses is submitted shall be inspected by the servicing company to determine whether the premises comply with the applicable protective device requirements.

(b) Coverage under a commercial crime insurance policy indemnifying against burglary losses shall not commence unless it is determined that the premises sought to be insured comply with all applicable protective device requirements. *Provided*, That all commercial premises whose exterior doors and accessible openings are found upon inspection to be protected by central station supervised service alarm systems or silent alarm systems (as those systems are defined in paragraphs (b) and (h) of § 1932.1) shall not be required to comply with the provisions of paragraphs (c) and (e) of § 1932.31 pertaining to the protection of those exterior doors and accessible openings by such devices as bars, grillwork, and other physical barriers. The benefit of this provision, therefore, applies also to commercial premises which, because of their particularly high risk inventories of merchandise, continue to be required by paragraph (f) (1) and (2) of § 1932.31 to have exterior doors and accessible openings protected by specified types of alarm systems, namely, supervised service alarm systems for the highest risk inventories and silent alarm systems for less high risk inventories.

(c) All commercial premises with annual gross receipts under $300,000 whose exterior doors and accessible openings are found upon inspection to be protected by local alarm systems (as defined in paragraph (g) of § 1932.1) which are designed to signal loudly at the premises, shall not be required to comply with the provisions of paragraphs (c) and (e) of § 1932.31 pertaining to the protection of those accessible openings by such devices as bars, grillwork, and other physical barriers. The benefit of this provision applies also to commercial premises whose high risk inventories are referred to in paragraph (f) (1) and (2) of § 1932.31 and such premises shall not be required to be protected by supervised service alarm systems and silent alarm systems if the premises is equipped with a local alarm system designed to signal loudly at the premises.

(d) If upon any renewal of any policy the insured's statement of annual gross receipts shows that the annual gross receipts total $300,000 or more the insured will be notified that his premises must be brought into complete compliance with all applicable protective device requirements no later than the expiration of that renewal term. Prior to the issuance of any subsequent renewal policy, the Administrator shall cause an inspection to be made, at a time agreed upon with the insured, and no such subsequent renewal policy shall be issued unless the insured is found to be in compliance.

(e) The Administrator may in his discretion waive one or more protective device requirements with respect to any policy where he determines that compliance would be inpractical and would impose a cost not reasonably commensurate with the protection derived. However, in the event of any loss contributed to in whole or in part by any such waiver, the Administrator may withdraw such waiver upon mailing to the insured thirty days written notice of withdrawal. Any loss occurring after thirty days from the day of the mailing of said notice shall not be paid unless the insured's premises shall be in compliance with the previously waived protective device requirement at the time of such loss. The Administrator may also in his discretion determine that the frequency and/or severity of occurrences of loss experienced under any policy issued under the provisions of paragraphs (b) and (c) of this section, requires that as a condition of renewal of such policy, the premises insured thereunder be protected by one or more of the protective devices described in paragraphs (a), (b), (c), (d), (e), and (f)(1), (f)(2), and (f)(3) of § 1932.31

(f) If, during the course of adjusting a claim submitted by an insured, an adjuster or other investigator discovers a protective device deficiency, not previously discovered and noted by an investigator, with respect to a device, described in any of paragraphs (a), (b), (c), (d), (e), and (f) of § 1932.31, which the insured was required to have installed as a condition of eligibility for insurance coverage, the deficiency shall be made known to the insured who will be given thirty days after his receipt of such written notice within which to remedy the deficiency. During that thirty-day period, burglary losses covered by the terms of

the policy will be paid irrespective of the deficiency. Burglary loses occurring more than thirty days after the date on which an insured is notified of the deficiency will be paid only if it is determined that the deficiency was corrected prior to the loss. However, no loss shall be payable at any time if caused in whole or in part by a protective device deficiency with respect to any device which the insured was required to have installed as a condition of eligibility, and which device was found to be present at the time of a previous investigation, if the deficiency resulted from the inoperability, alteration, removal or disconnection of said required protective device by or with the knowledge of the insured, subsequent to the previous inspection of the premises.

(g) An insured who has knowledge of an inoperability or other malfunction of a protective device which the insured was required to have installed as a condition of eligibility for insurance coverage shall imediately notify the Administrator of such deficiency in writing, or by use of the servicing company's toll-free telephone number 800-638-8780. If the insured complies with such emergency protective measures as the Administrator may specify following receipt of such notice, and if the deficiency is corrected within the time specified by the Administrator, no loss of coverage will result during the period of inoperability or malfunction.

(h) If, an insured cancels a commercial policy because of a move to a new premises and applies for insurance at the new premises, there shall be a mandatory inspection to determine compliance with protective device requirements at the new location. However, protective device requirements shall not be applicable to the new premises until 30 days after the insured's receipt of written notice of either compliance or of a deficiency, thus giving the insured time in which to remedy the deficiency. Burglary losses occurring more than 30 days after the date on which the insured received notice of a deficiency will be paid only if it is determined that the deficiency was corrected prior to the loss.

4. Section 1932.4 is revised to read as follows:

§ 1932.4 Inspection of Residential Premises Following Losses.

(a) Each residential applicant applying for Federal Crime Insurance shall be responsible for meeting the protective device requirements applicable to his premises. Any person who is doubtful as to whether the protective devices existing on his premises at the time of application meet such requirements should examine the descriptive materials and illustrations available from the servicing company and direct any specific questions to the servicing company.

(b) In addition insurance agents and brokers are expected to assist and advise prospective insureds concerning the protective device requirements for residential premises. However, no agent or broker shall be authorized to approve or disapprove on behalf of the insurer the adequacy of any required protective devices, and any representation to the contrary is false and shall be void.

(c) Upon receiving any notice of loss from an insured, the Administrator shall cause an inspection of the insured residential premises to be made in the course of the adjustment of the claim in order to determine whether the premises meets the protective device requirements of the program. If no inspection of the premises has previously been made and if the first such inspection reveals that the insured premises does not comply with the applicable protective device requirements, any first loss covered by the terms of the insurance policy, involving robbery or a burglary evidenced by visible marks of forcible entry, will be paid irrespective of any deficiencies in the insured's compliance with the protective device requirements. However, the insured will be given thirty days from the date on which he is notified in writing of any deficiencies to correct such deficiencies. During that thirty day period, robbery or burglary losses covered by the terms of the insurance policy will continue to be paid irrespective of any deficiencies in the insured's compliance with the protective device requirements. Losses occurring more than thirty days after the date on which the insured has been notified in writing of the results of the inspection will be paid only if it is determined that a loss, covered by the terms of the insurance policy, did not result in whole or in part from a protective device deficiency of which the insured was previously placed on written notice.

(Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); sec. 1103, 82 Stat. 566, (12 U.S.C. 1749bbb-17))

Issued at Washington, D.C., January 5, 1978.

JAY JANIS,
Acting Secretary, Housing and Urban Development.

[FR Doc. 78-2581 Filed 1-30-78; 8:45 am]

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

[DOD Directive 4120.18]

PART 209—USE OF THE METRIC SYSTEM OF MEASUREMENT

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes Department of Defense policies for the use of the metric system of measurement.

EFFECTIVE DATE: December 10, 1976.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Mitchell, Defense Mate Specifications and Standards Office, Under Secretary of Defense (Research and Engineering), Cameron Station, Alexandria, Va. 22314, telephone 202-274-6337.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 23, 1978.

Accordingly, Part 209 reads as follows:

Sec.
§ 209.1 Purpose.
§ 209.2 Applicability.
§ 209.3 Background and objectives.
§ 209.4 Policies.
§ 209.5 Responsibilities.

AUTHORITY.—This rule is issued under 15 U.S.C. 205a-k (Pub. L. 94-168).

§ 209.1 Purpose.

This Part establishes policies for the use of the metric system of measurement within the Department of Defense.

§ 209.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Military Departments, and Defense Agencies (hereinafter referred to collectively as "DoD Components").

§ 209.3 Background and objectives.

(a) 15 U.S.C. 205a-k (Pub. L. 94-168), establishes a national policy of coordinating the increasing use of the metric system in the United States. Many Defense-related industries have converted or are planning conversion from U.S. customary inch-pound measurement system to metric measurements. The Department of Defense must be able to accept such conversion with minimum cost and disruption of operations.

(b) Use of the metric system will help foster standardization with our allies and thus promote interchangeability and interoperability, facilitate joint military production programs, and simplify supply operations.

(c) Consideration of metric usage is especially appropriate in the design of new Department of Defense Materiel where metric products are expected to be in common use at the time of production release.

(d) Generally, it is recognized that industry will take the lead in the changeover and the DOD Components will keep pace by adopting commercially available metric items wherever economically and technically practicable.

§ 209.4 Policies.

(a) The Department of Defense will consider the use of the metric system in all of its activities consistent with operational, economical, technical, and safety requirements.

(b) The metric system will be considered for use in all new designs. When it is deemed not to be in the best interest of the DOD to provide metric design, justification shall be provided. Further, it will be considered in the procurement of all supplies and services. In general, the metric system will be adopted for the following:

(1) Where there is a specific military need such as for materiel to be used jointly with NATO and other allied nations.

(2) Military materiel which has potential for significant foreign sales or joint production programs.

(3) Areas where industry has made significant progress in metric conversion and production facilities are available.

(4) Areas where defense-industry preparedness or defense production readiness may be enhanced.

(5) Other areas which offer an economic, operational, or other advantage or when no disadvantage is incurred.

(c) Physical and operational interfaces between metric items and U.S. customary items will be designed to assure that interchangeability and interoperability will not be adversely affected.

(d) Existing designs dimensioned in U.S. customary units will be converted to metric units only if determined to be necessary or advantageous. Unnecessary retrofit of existing systems with new metric components will be avoided where both the new metric and existing units are interchangeable and interoperable. Normally, the system of measurement in which an item is originally designed will be retained for the life of the item.

(e) During the metric transition phase hybrid metric and U.S. customary designs will be necessary and acceptable. Materiel components, parts, subassemblies, and semifabricated materials which are of commercial design will be specified in metric units only when economically available and technically adequate or when it is otherwise specifically determined to be in the best interest of the Department of Defense. Bulk materials will be specified and accepted in metric units when it is expedient or economic to do so.

(f) Defense Systems Acquisition Review Council (DSARC) reviews and associated Decision Coordinating Papers will address the use of metric units of measurement or reasons for their nonuse (DOD Instruction 5000.2[1]).

(g) Technical reports, studies, and position papers (except those pertaining to items dimensioned in U.S. customary units) will include metric units of measurement in addition to or in lieu of U.S. customary units. With respect to existing contracts, this requirement applies only if such documentation can be obtained without an increase in contract costs.

(h) Programing and budgeting actions will include resources required to support the DOD effort in converting to the use of metric units. Use of the metric system will be identified and planned so that costs can be included in the budget cycle on an orderly basis.

(i) The International System of Units (SI) will be the metric system used by the DOD.

(j) Representatives of the Department of Defense will participate in the development of national and international standards using the metric system, to the extent indicated by DOD interest. NATO and other international metric standards will be used to the maximum practical extent. However, if a U.S. Standard is established with greater definition and restriction than a prevailing international standard, the U.S. Standard will apply.

(k) Emphasis will be placed on keeping pace with the conversion or development of specifications, standards, and other general purpose technical data. When the item in question is a military item without a commercial counterpart, the Preparing Activity will assume a leadership role in development of the applicable metric document as the need arises.

(l) When purchasing new equipment, DOD Components are encouraged to specify features which will allow direct measurement in terms of SI units or both SI and U.S. customary units. Use of conversion kits is also encouraged.

(m) Training in metric practices and usage will be provided to those personnel whose duties require such knowledge.

(n) Use of dual dimensions (i.e., both metric and U.S. customary dimensions) on drawings will be avoided unless it is determined in specific instances that such usage will be beneficial. However, the use of tables on the document to translate dimensions from one system of measurement to the other is acceptable.

§ 209.5 Responsibilities.

(a) The Under Secretary of Defense for Research and Engineering and the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), will provide policy and any necessary procedural guidance related to this Part.

(b) The Military Departments and Defense Agencies will appoint a person or establish an office to coordinate metric activities and provide advice on metric conversion within the DOD Component concerned.

[FR Doc. 78-2571 Filed 1-30-78 8:45 am]

[1] Filed as part of original. Copies may be obtained if needed from the U.S. Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120 Attention: Code 301.

[7910-01]

Title 32—National Defense

CHAPTER XIV—RENEGOTIATION BOARD

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

Renegotiability of Foreign Military Sales Contracts and Subcontracts

AGENCY: The Renegotiation Board.

ACTION: Final rule.

SUMMARY: The Renegotiation Board is amending its regulations concerning contracts that do not have a direct or immediate connection with the national defense to make it cleart contracts awarded pursuant to the Foreign Military Sales Act of 1968 (now the Arms Export Control Act) are not exempt from renegotiation. This amendment is necessitated by reason of a change in the interpretation of this section of the Board's regulations. The amendment also deletes a "Note" to the same section of the Board's regulations concerning the responsibility of the procuring Departments to inform contractors of the exempt status of contracts. The "Note" is being deleted because it is, with the publication of this regulation, obsolete.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

SUPPLEMENTARY INFORMATION: Section 102(a) of the Renegotiation

Act of 1951, as amended (50 U.S.C. App. 1212(a)) (the Act), provides that all contracts with Departments named in, or designated by the President under, section 103(a) of the Act (50 U.S.C. App. 1213(a)), and related subcontracts, are subject to renegotiation. Thus, all contracts with a named Department, including those awarded pursuant to the Arms Export Control Act, or, prior to change of name, the Foreign Military Sales Act of 1968 (22 U.S.C. §§ 2751-2794), and related subcontracts are renegotiable unless specifically exempted in the Act or by the Renegotiation Board pursuant to provisions of the Act.

Section 106(a)(6) of the Act (50 U.S.C. App. 1216(a)(6)), which, in the Board's opinion, affords the only possible basis for exemption of foreign military sales contracts, exempts from renegotiation any contract which the Board determines does not have a direct and immediate connection with the national defense. This provision also states that "The Board shall prescribe regulations designating those classes and types of contracts which shall be exempt * * *." Pursuant to this statutory directive, the Board has determined in § 1453.5(b)(3)(i) of its regulations that contracts with named Departments are exempt from renegotiation to the extent that (1) they obligate funds of an agency other than a named Department, or (2) the contracting Department is to be reimbursed by such agency or other person. In § 1453.5(b)(3)(ii) the Board has excluded from this exemption contracts which obligate funds appropriated under or to carry out the purposes of foreign aid programs for military assistance.

The exemption, as originally promulgated on March 25, 1952, did not contain any limitation or exclusion. However, after it was published, it was pointed out to the Board that the class exemption would apply to military assistance contracts authorized under the Mutual Security Act since the Department of Defense, in procuring military items for the Mutual Security Agency, would obligate funds appropriated to the President and allocated to the Department of Defense. As a result, the regulation was amended on April 25, 1952 to specifically exclude from the exemption those types of contracts, by adding the following limitation:

> (ii) Contracts which obligate funds appropriated under the Mutual Security Act of 1951 (65 Stat. 373) or under earlier foreign aid programs, insofar as such funds are obligated for military assistance, are not exempt under this subparagraph (3).

In 1960 this limitation was amended "to bring up to date the reference to foreign aid programs [then] contained in paragraph (b)(3)(ii)."

In a memorandum to the Board dated May 26, 1960 recommending the language contained in the present subdivision (ii), the General Counsel noted that:

> Funds appropriated to carry out the provisions of Mutual Security legislation, insofar as they are allocated to military rather than economic assistance, are expressly characterized in the appropriation statutes as relating to our own national defense as well as that of the beneficiary countries. Accordingly, contracts entered into pursuant to any such program may not be said to have no direct and immediate connection with the national defense. It follows that such contracts, when entered into by a named Department, should be excepted from the exemption referred to above.

Prior to early 1976, when the Board changed its policy, culminating in its adoption of Interpretation No. 80 on September 1, 1976, the Board had consistently excluded from this exemption contracts which obligated military assistance funds. Further, prior to the issuance of Interpretation No. 80, the Board had expressly held that contracts awarded under the Foreign Military Sales Act of 1968 (now the Arms Export Control Act), were excluded from the exemption by § 1453.5(b)(3)(ii) and therefore were subject to renegotiation. On June 20, 1977, the Board rescinded Interpretation No. 80 (42 F.R. 32339, June 24, 1977), and as soon as practicable thereafter, published for comments a proposed amendment to § 1453.5(b) (2) and (b)(3) of its regulations (42 FR 37424, July 21, 1977). Thus, contrary to the position taken by some commenters, the Board had not always held foreign military sales contracts to be exempt from renegotiation. Actually, such a formal position prevailed only during the period September 1, 1976 to June 21, 1977 when Interpretation No. 80 was in effect, and with the adoption and publishing of the amended regulation, the Board is merely reverting to the position consistently held in the past.

The basis for the amended regulation is clear. The Act provides that all contracts with Departments named in the Act and related subcontracts are subject to renegotiation unless otherwise exempt, and the Board believes there is not basis under the Act for exempting foreign military sales contracts or subcontracts, either individually or as a class of contracts. With reference to the policy objectives of the Arms Export Control Act (formerly the Foreign Military Sales Act of 1968) it is stated in pertinent part, as follows:

> The Congress recognizes, however, that the United States and other * * * countries continue to have valid requirements for effective and *mutually beneficial defense relationships* in order to maintain * * * international peace and *security* * * *. The need for *international defense cooperation* among the United States and those friendly countries [allies] is especially important * * *.
>
> Accordingly, it remains the policy of the United States *to facilitate the common defense* by entering into international arrangements with friendly countries * * * *to achieve specific national defense requirements and objectives of mutual concern.* (Emphasis supplied.) (22 U.S.C. 2751)
>
> Further, no foreign military sales agreements can be made unless: "(1) the President finds that the furnishing of defense articles and defense services to such country * * * will strenghten the security of the United States and promote world peace * * *." (22 U.S.C. 2753.)

The Board further notes that the standard form of contract (with the usual contractual liabilities running to the parties) is employed in procuring items for resale to foreign countries. Such contracts when made by the Department of Defense are entered into by Procurement Contracting Officers acting under authority delegated to them by the Secretary of Defense, with the aid of the full range of departmental services available to the PCO. The executed contracts are administered by the Administrative Contracting Officer organizations, including use of the full range of departmental services available to ACO's. Finally, such contracts are subject to price analysis by the Defense Contract Audit Agency prior to their execution and to the full range of audit and recommendations by DCAA after the contracts have been entered into. Thus, the negotiation, administration, and audit of these contracts is in all essential respects indistinguishable from the negotiation, administration and audit of contracts made by the Department of Defense for supplies and services for its own use. Since foreign military sales procurement is an essential part of defense contracting, it is thus among the procurement activities that the Congress intended the Board to review. Accordingly, the Board does not agree with some comments that the method of contracting is irrelevant to the issue.

Under the circumstances, there is no basis for a Board determination that foreign military sales contracts "[do] not have a direct and immediate connection with the national defense" a prerequisite for the exemption under section 106(a)(6) of the Act (50 U.S.C. App. 1216(a)(6)). Consequently, there are no significant differences between the final rule being published herein and the proposed rule published for comment in the July 21, 1977 FEDERAL REGISTER (42 FR 37424).

DISCUSSION OF MAJOR COMMENTS

The Board appreciates the interest shown by the large number of contractors, firms, associations, Government agencies, and individuals who commented on the proposed amendment, and all comments, including many that were received after the August 29, 1977 closing date, were carefully

considered by the Board in adopting and publishing this final rule.

Approximately two-thirds of the comments were brief telegraphic communications, substantially identical in form, opposing the amendment on the ground that the General Accounting Office had ruled that "it had no jurisdiction over bid protests on foreign military sales because appropriated funds are not involved." The Comptroller General's Decisions, apparently referred to by these commenters and cited and discussed in more detail by several others (e.g., *Consolidated Diesel Electric Co.*, B-177450, January 6, 1977, 77-1 CPD 7, *Verne Corp.*, Comp. Gen. Dec. B-188332, June 2, 1977, and others) involved instances where the Comptroller General either denied or declined jurisdiction essentially because the foreign purchaser either borrowed funds from the United States, agreed to reimburse the United States, or there was only "incidental or temporary" use of appropriated funds. While the Comptroller General may consider that, under 42 Stat. 24, 31 U.S.C. 71, he has no jurisdiction to handle bid protests on foreign military sales contract awards, the Board's statutory authority to renegotiate foreign military sales contracts with a named Department is clearly provided in the Act and is distinguishable from the Comptroller General's opinion of his bid protest jurisdiction.

Somewhat along the same line, several commenters argued that the preamble to the Act, Section 101 *Declaration of Policy* (50 U.S.C. App. 1211) prescribed the extent of the Board's authority, namely the renegotiation of national defense contracts financed by United States appropriated funds. Since the United States tax payer is not out-of-pocket on foreign military sales contracts, some commenters argued, the Board has no jurisdiction. In this connection, they cited the "pay-in-advance" requirements where no appropriated funds are involved, or reimbursement by the foreign purchaser in 120 days, or up to 12 years in credit sales, together with the "dependable undertaking" on the part of the foreign purchaser to make the United States Government "whole"—the recovery of its "full costs," plus a percentage administration fee. The Tax Court decision in *W. Tip Davis Co.* v. *Patterson* (12 T.C. 335, 339-40 (1949) was cited for the principle that only contracts utilizing appropriated funds are subject to renegotiation. *W. Tip Davis* was a renegotiation proceeding under the 1942 Act wherein the court held that direct sales to Army Post Exchanges which "buy with their own funds" and "belong to the shareholding units" were not subject to renegotiation. Although the court said that "[t]his matter of the source and ownership of funds used to purchase the goods is vital in renegotiation," it also stated that "the statutes providing for renegotiation were not intended to prevent excessive profits from contracts on which the Government was not obligated." Certain commenters also pointed out that the 1942 Act renegotiating authority had excluded from renegotiation post exchange-type contracts, involving nonappropriated funds, both contracts direct with the exchanges and those on their behalf by the Quartermaster General (J.R.M. 332.5 and 6); and that the Board in § 1453.5(b)(17), had exempted such contracts "with organizations using nonappropriated funds." However, the Board notes that § 332.6 of the 1943 Act Regulations, contrary to regulations under the 1942 Act, excluded from renegotiation direct sales to post exchanges and similar organizations, but held that contracts with the Quartermaster Corps or a similar unit of a named Department, were subject to renegotiation even though articles purchased were assigned or resold to a post exchange (R.R. § 332.6). Under the 1951 Act, the Board has consistently held that sales to military exchanges and similar organizations are subject to renegotiation, but they have been exempted under § 1453.5(b)(17). The point that distinguishes *W. Tip Davis* and the other examples from the foreign military sales situation, is that the latter contracts are with named Departments, fully obligate the United States, and are subject to renegotiation, unless otherwise exempt under the Act. The Board believes that the latter statement properly describes the Board's jurisdiction and that the statements in the preamble of the Act about the Congress having made available "extensive funds, by appropriation, or otherwise" are entirely consistent with this interpretation.

Even if the source of funds were relevant to the scope of the Board's jurisdiction, the Board notes that the Arms Export Control Act authorizes the use of any appropriated funds, albeit subject to reimbursement, including funds necessary to cover credit sales up to 12 years, or 20 years in the case of one country. There is always the possibility of default, dilatory payments (for which the procuring Department is authorized to charge interest), as well as, payments within 120 days after delivery for cash sales and other widespread actual or contingent involvement of appropriated monies.

Some of the commenters contended that foreign military sales contracts are not "contracts" with "Departments" named in section 103(a) of the Act (50 U.S.C. App. 1213(a)), because the United States is acting as an intermediary or an agent on behalf of the foreign government, as a disclosed principal, in procuring items under the Arms Export Control Act (formerly the Foreign Military Sales Act of 1968). One commenter went so far as to say that if it were strictly a commercial transaction, the Board's interference in the principal-agency relationship would be considered fraud. In response, the offer and acceptance (DD Form 1513) between the United States and the foreign country does not contain the elements necessary to establish an agency relationship, but rather is a two-country contract where the United States agrees to sell certain items from stock or to contract independently with a defense contractor for the items desired and then to resell them to the foreign purchaser. The United States obtains title and assumes liability on the contract, subject only to an independent reimbursement of total costs.

Further, on the question of Congressional intent which was a subject treated by some commenters, an examination of the legislative history of the 1951 Act reveals that the intended scope of renegotiation was broad enough to encompass the foreign military sales program established by the later enacted Foreign Military Sales Act of 1968 and the Arms Export Control Act (1976 amendment).

The *Declaration of Policy* of the Act (section 101, 50 U.S.C. App. 1211), speaks of Congress having "made available for the execution of the national defense program extensive funds, by appropriation and otherwise . . ." and speaks also of the "elimination of excessive profits from contracts made with the United States, and from related subcontracts, in the course of [the national defense] program." Section 101 was introducted by Representative Daughton, Chairman of the House Ways and Means Committee as part of H.R. 1724. The term "contracts made with the United States" is further defined in section 102(a) of the Act as "all contracts with the Departments specifically named in section 103(a). . . ." During the course of consideration of the 1951 Act, this last quoted language became a source of contention. Senator McClellan offered an amendment which would have changed the language of section 102(a) to read:

> (a) *In General.*—The provisions of this title shall be applicable to all contracts (1) having a direct and immediate connection with the national defense, with the Departments specifically named in section 103(a) . . . and (2) to all contracts, having a direct and immediate connection with the national defense, with the Departments designated by the President under section 103(a). Cong. Rec. 1381 (daily ed. Feb. 19, 1951).

This language became part of the Senate version of the bill. However, it was eliminated in conference. At the same time, the conferees formulated

the language which forms the basis for the present section 106(a)(6) exemption. The specific rationale for resting the ultimate determination in the Board was the difficulty of framing the statutory standard. Cong. Rec. 2323 (daily ed. March 12, 1951); H.R. Rep. No. 353, 82d Cong., 1st Sess. 6 and 11 (1951). The statement of the House Managers is particularly illuminating in the narrowness of the exemption as envisioned by Congress. H.R. Rep. No. 213, 82d Cong., 1st Sess. 6 and 11 (1951). "In administering this exemption, the Board's determinations are not to be circumscribed by a narrow definition of the words 'direct' and 'immediate.' The Board is not to determine that a contract does not have direct and immediate connection with the national defense if the purpose of the contract is essential to the national defense, or is clearly connected with the national defense, irrespective of the fact that there may appear to be intervening mediums between the purposes of the contract and the ultimate national defense."

The Board believes this legislative history is wholly consistent with its conclusion that foreign military sales contracts cannot be said to have no direct and immediate connection with the national defense.

The 1951 Act, unlike the predecessor renegotiation statutes, was not an amendment to an appropriations measure, but an act creating an independent agency with an apparently broader authority to remove "excessive profits from contracts made with the United States, and from related subcontracts, in the course of [the national defense] program. . . ." (Section 101 of the Act, 50 U.S.C. App. 1211.) The nature of the foreign military sales program and its involvement with, and impact on, the whole Department of Defense procurement system, and the actual use of appropriated funds (temporarily at least), is manifest in the Comptroller General's August 19, 1977 audit report (Digest of opinion, B-165731), wherein it was found that the Department of Defense may be undercharging foreign purchasers upwards of $71 million a year, or more, in accessorial and transportation costs. The Comptroller General reported to Congress that foreign military sales have increased from $952 million in 1970 to $8.7 billion in 1976, and that about 50 percent of the Army's procurement activities were for the support of foreign sales.

Apparently, the boom in U.S. foreign military sales began in 1973, at which time, "sales" were reported at about $10 billion a year or more for 1974 and 1975, but these referred to contracts to purchase, not deliveries. The United States, as of November 1975, reported cumulative foreign military sales orders totaling $44 billion, with cumulative deliveries in the amount of $19.6 billion (including $9.5 billion orders and $3.4 billion deliveries in 1975). (Foreign Military Sales and Military Assistance Facts, DOD, Nov. 1975, p. 8.) Thus, more than likely, actual deliveries under these orders will be occurring in the early and mid 1980's. The Board does not believe, as has been suggested by one commenter, that the Board's fiscal year review of foreign military sales, costs and profits of a particular defense contractor, along with the contractor's other renegotiable business, will interfere with the administration of foreign military sales contracts. It was also pointed out by this commenter that if FMS contracts are subjected to renegotiation, it will delay the DOD's computation of the final total costs (to the Government) of a particular contract and determination of the amount of refund to the foreign customer, until renegotiation proceedings (at the Board and in the courts) is completed, whereas the refund can now be determined when final delivery is made. Although the Board does not believe any substantial additional expense will be incurred by the Government in renegotiating the foreign military sales contract portion of a contractor's business, it is doubtful the Government would seriously consider charging the foreign purchaser with renegotiation costs any more than it would charge for the Department of Labor's administration of the various labor statutes made applicable to the contracts. If completion of renegotiation becomes a problem, suitable arrangements could be worked out as in the case of price redetermination contracts, unsettled at the Departmental level, at the time renegotiation is being completed.

The same commenter, as well as certain other commenters, objected to the proposed amendment because, if the Board determined excessive profits in a case involving receipts under a foreign military sales contract, any amount of excessive profits recovered from the contractor, after income tax credits, is required, under section 105(b)(7) of the Act, to be covered into the U.S. Treasury as miscellaneous receipts. It was contended that such refund, if any, should go to the foreign purchaser, and that there is no existent legal authority to refund such excessive profits to the foreign purchaser. Another commenter also contended that, if the excessive profits were to be refunded to the foreign government, the gross amount should be refunded, rather than the net after Federal income tax credits under §1481 of the Internal Revenue Code of 1954, as in the case of a refund by the contractor to the United States. Yet, the contractor would be entitled to the tax credit which would be a detrimental loss of tax revenues. The Board recognizes this problem, but considers that it has a statutory responsibility to renegotiate FMS contracts. Further, since the Government agrees in DOD Form 1513 to make such contracts subject to all the ASPR's, it should afford the foreign government the protection of renegotiation so that U.S. defense contractors would not be realizing excessive profits in such transactions.

Moreover, most of those who commented on this point seemed to assume that a foreign military sales contract could be isolated from a contractor's defense contracting business in a particular year. This is presumably why these persons commented on the pro's and con's of refunding to the ultimate purchaser the excessive profits which they deemed would arise from a particular FMS contract. To the contrary, the Board's experience indicates that FMS contracts are typically performed by companies which are simultaneously performing a great number of other renegotiable contracts and subcontracts for products or services. It might well be said that the excessive profits arose out of the entire complex of renegotiable business, and not out of any particular contract.

Additionally, the Board notes that the excessive profits realized by a contractor in any particular year are not refunded to the United States departments or agencies which made the contracts being performed in that year. Instead, the excessive profits are paid into the miscellaneous receipts of the Treasury, where they are of course not available to be restored to the appropriations which gave rise to them.

If it had been the intent of the Congress in passing and amending the Act, to restore amounts paid as excessive profits to the purchasers under contracts where the excessive profits arose, the Act would have contained different provisions than it now does, respecting both fiscal year renegotiation and also the treatment of recoveries.

As stated above, this final regulation is being made effective immediately. Thus, in accordance with §§1451.1 and 1451.2 of the Board's regulations, it will apply to all fiscal years of contractors and subcontractors pending before the Renegotiation Board or a Regional Renegotiation Board; and to all fiscal years of contractors and subcontractors for which renegotiation filings are due but have not been submitted to the Renegotiation Board. However, as provided in §1451.2 of the Board's regulations, the adoption and promulgation of this amended regulation will not affect the validity of any formal action heretofore taken by the Renegotiation Board determining that a specific foreign military sales contract or subcontract is exempt from renegotiation in accordance with prior regulations.

Some commenters argued against making the regulation effective with respect to all filings not yet finally acted upon because: (1) It would discriminate against contractors who had been cleared and against those who would have to refile; (2) the Board had always held foreign military sales contracts to be exempt (a contention that is contrary to the fact); and (3) that the Board lacked the authority to promulgate a "retroactive" regulation. One commenter contended it would be discriminatory and a violation of §1451.2 of the Board's regulations to make the amended regulation retroactive, and "illegal" to make it prospective. Others contended that since the Act "expired" on September 30, 1976, the Board no longer had the authority to promulgate rules and regulations, or, considering the status of pending legislation affecting the Board, the Board should not make any substantive rule changes. It was suggested that the Board was seeking to enlarge its jurisdiction at a time when the future of renegotiation is in question.

Although the "termination date" of renegotiation coverage in section 102(c)(1) of the Act (50 U.S.C. App. 1212(c)(1)) expired on September 30, 1976 and has not yet been extended, and the Board's authority to renegotiate presently extends only to receipts or accruals under renegotiable contracts and subcontracts attributable to performance prior to October 1, 1976, the Board's authority and responsibility under all other sections of the Act, including its authority to make rules and regulations under section 109 of the Act (50 U.S.C. App. 1219)), remain fully intact. Full authority also exists to provide retroactive effect to its regulations with respect to all open cases or unfiled renegotiation reports. (See §1451.2 of the board's regulations.) The Supreme Court upheld the retroactive effect of renegotiation of war contracts entered into before the enactment of a predecessor Renegotiation Act. (*Lichter* v. *United States*, 334 U.S. 742, 789 (1948).) As stated above, except for the period from early 1976 to June 21, 1977, when the Interpretation No. 80 policy change was in effect, the Board, from the inception of the Act, had held foreign military assistance contracts to be subject to renegotiation and had also held foreign military sales contracts to be renegotiable. Further, it cannot make the finding that formed the basis of Interpretation No. 80. Consequently, it has made this amended regulation apply to all open and unfiled cases where no previous formal Board action has been taken. This is a practice consistently followed since the inception of the Act. Although additional information will be required in most cases, the board does not believe that any refilings will be necessary. Contractors will merely have to identify the sales, costs and profits relating to foreign military sales contracts appearing in the filing for each fiscal year so that the Board can incorporate such figures in the renegotiable business portion of the filings. Since detailed records are required under foreign military sales contracts, this should pose no undue burden or expense.

Finally, several contractors contended that the board was obligated, under Executive Order 11949 and OMB Circular A-107, to file an economic impact statement at the time of the Notice of Proposed Rulemaking. The Board believes that no such statement was necessary in this instance, and its certification to that effect was published with the proposed rule in full compliance with the Executive Order.

In view of the numerous and detailed comments submitted by individuals, firms and associations—representative of a major portion of industry affected by renegotiation, and the additional billions of dollars annually that will be subjected to renegotiation under this final regulation, the Board felt that this detailed response was appropriate.

In consideration of the foregoing, Chapter XIV of 32 CFR is amended as set forth below.

Dated: January 26, 1978.

GOODWIN CHASE,
Chairman.

This part is amended in the following respects:

1. 32 CFR 1453.5(b)(3)(ii) is revised to read as follows:

§1453.5 Contracts that do not have a direct and immediate connection with the national defense.

* * * * *

(b) * * *

(3) * * *

(ii) Contracts which obligate funds appropriated under or to carry out the purposes of foreign aid programs, insofar as such funds are obligated for military assistance, and contracts awarded pursuant to the Foreign Military Sales Act of 1968, or by name change in 1976, the Arms Export Control Act (22 U.S.C. §§2751-2794), are not exempt under paragraph (b)(3) of this section.

2. The "Note" to 32 CFR 1453.5(b)(2) and (b)(3) is deleted.

(Sec. 109, 65 Stat. 22; 50 U.S.C. App. Sec. 1219.)

[FR Doc. 78-2631 Filed 1-26-78; 3:45 pm]

[3510-16]

Title 37—Patents, Trademarks and Copyrights

CHAPTER I—PATENT AND TRADEMARK OFFICE, DEPARTMENT OF COMMERCE

PART 1—RULES OF PRACTICE IN PATENT CASES

Rule Promulgation Relating to Multiple Dependent Claims and Drawing Requirements

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: This notice adopts rule changes which permit the use of multiple dependent claims and prescribe when, and in what circumstances, drawings or additional drawineed to be furnished. These rule changes are necessary because of amendments to sections 41, 112 and 113, Title 35 United States Code, which become effective on January 24, 1978. The rule changes are intended to carry into effect the changes made by the amendments to the noted sections.

DATES: Effective date, January 24, 1978. The amended rules apply to applications filed on and after the effective date, even though such applications may be entitled to the benefit of an earlier filing date.

FOR FURTHER INFORMATION CONTACT: Mr. Louis O. Maassel by telephone at 703-557-3070, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This notice changes several rules to conform with 35 U.S.C. sections 41, 112 and 113 as amended by Pub. L. 94—131, effective January 24, 1978, the date of entry into force of the Patent Cooperation Treaty. Notice was given on January 12, 1977 in the FEDERAL REGISTER (42 FR 2632-2644) and on February 8, 1977 in the Official Gazette (955 O.G. 350-363) of a proposal to amend Title 37 of the Code of Federal Regulations due to the entry into force of the Patent Cooperation Treaty and Pub. L. 94-131 (94th Congress; 89 Stat. 658). Interested persons were invited to comment on the proposal on or before May 26, 1977, on which date a public hearing was held. The time for submitting written comments was extended until August 31, 1977 by a notice published on June 23, 1977 in the FEDERAL REGISTER (42 FR 31812) and on July 12, 1977 in the Official Gazette (960 O.G. 8). Comments relevant to the rule changes being promulgated were submitted by only two persons. These comments have been substantially adopted. A transcript of the hearing, the letters and written statements received, and a summary and analysis of the comments are available for public inspection in Room 11E10 of Crystal Plaza Building 3, 2021 Jefferson Davis Highway, Ar-

lington, Va. These changes provide for the filing of multiple dependent claims and for later submission of drawings in applications where such drawings are not necessary for the understanding of the subject matter sought to be patented. This rule change promulgation is directed to only those portions of the proposed rule changes relating to §§ 1.75, 1.81 and 1.83 which are required on January 24, 1978, due to the coming into force of Pub. L. 94-131. The other proposed rules relating to implementation of the Patent Cooperation Treaty will be promulgated later.

Good cause is found for the publication of this notice less than 30 days before the effective date of these rules, since it would be in the public interest for the amended rules to take effect on the same date as the statute.

Paragraph (c) of § 1.75 differs from the proposal in that two additional sentences have been added indicating how fees will be calculated for multiple dependent claims and claims depending therefrom. No comments were received concerning this rule as originally proposed.

Paragraph (c) of § 1.81 has been rewritten to adopt a revision suggested by one of the two persons who submitted comments. Paragraph (d) is a quote from revised 35 U.S.C. 113 and is added to include the restrictions relating to additional drawings.

The proposed amendments to paragraphs (a) and (b) of § 1.83 were opposed by both persons who commented and they have not been adopted, but a new paragraph (c) is added in view of those comments.

Accordingly, 37 CFR Part 1 is amended as follows:

1. By amending § 1.75 by revising paragraph (c) and adding paragraphs (f) and (g) to read as follows:

§ 1.75 Claims(s)

* * * * *

(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes, also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.

* * * * *

(f) If there are several claims, they shall be numbered consecutively in Arabic numerals.

(g) All dependent claims should be grouped together with the claim or claims to which they refer to the extent possible.

2. By revising § 1.81 to read as follows:

§ 1.81 Drawings required.

(a) The applicant for a patent is required to furnish a drawing of his invention where necessary for the understanding of the subject matter sought to be patented; this drawing must be filed with the application.

(b) Drawings may include illustrations which facilitate an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views).

(c) Whenever the nature of the subject matter sought to be patented admits of illustration by a drawing without its being necessary for the understanding of the subject matter and the applicant has not furnished such a drawing, the examiner will require its submission within a time period of not less than two months from the date of the sending of a notice thereof.

(d) Drawings submitted after the filing date of the application may not be used to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

3. By adding a new paragraph (c) to § 1.83 to read as follows:

§ 1.83 Content of drawing.

* * * * *

(c) Where the drawings do not comply with the requirements of paragraphs (a) and (b) of this section, the examiner shall require such additional illustration within a time period of not less than two months from the date of the sending of a notice thereof. Such corrections are subject to the requirements of section 1.81(d).

NOTE.—The Patent and Trademark Office has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: January 12, 1978.

LUTRELLE F. PARKER,
Acting Commissioner of Patents and Trademarks.

Approved:

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-2607 Filed 1-30-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the Virgin Islands Implementation Plan

AGENCY: Evnvironmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a revision to the Virgin Islands Implementation Plan. This approval action has the effect of allowingelaxation of the sulfur-in-fuel-oil limitation applicable to the Virgin Islands Water and Power Authority's Christiansted Power Plant on the island of St. Croix. Prior to this action, this facility was limited under the Implementation Plan to the use of oil with a sulfur content of 0.5 percent, by weight. This relaxation will permit the use of oil with a sulfur content of 1.5 percent, by weight. Receipt of a revision request from the Virgin Islands was announced in the FEDERAL REGISTER on November 9, 1977, at 42 FR 58415, where a full description of the proposed revision is contained.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION: On January 19, 1976, the Virgin Islands adopted a revision to 12 V.I.R. & R. 9:204-26, an air pollution control regulation dealing with "Sulfur Compounds Emission Control." This revised regulation was submitted to the Environmental Protection Agency (EPA) for approval as a part of the Virgin Islands Implementation Plan (SIP) on January 21, 1976. In a series of actions appearing in the FEDERAL REGISTER, EPA approved the revised regulation with the exception of a part concerning a revision to the sulfur content of oil allowable for use on the

island of St. Croix. On August 29, 1977, the Virgin Islands again submitted the revised regulation with a request that it be approved only to the extent as it applies to one source on St. Croix. Approval of this proposal therefore has the effect of relaxing the allowable sulfur-in-fuel-oil limitation for the Virgin Islands Water and Power Authority's Christiansted Power Plant from 0.5 percent to a maximum of 1.5 percent, by weight. The sulfur-in-fuel-oil limitation for other sources on St. Croix remains at 0.5 percent.

The revision request was submitted in accordance with all applicable EPA requirements under 40 CFR Part 51, including public hearings which were held on June 21, 24, and 25, 1974. The proposed revision to the SIP was announced in the FEDERAL REGISTER on November 9, 1977 (42 FR 58415), where a detailed description of the revision was provided. In this announcement EPA advised the public that comments would be accepted as to whether the proposed revision to the Virgin Islands Implementation Plan should be approved or disapproved. No comments were received.

EPA has reviewed the Virgin Islands control strategy demonstration and is in agreement with its conclusion that, if implemented, the proposed plan revision would not be expected to cause or exacerbate contraventions of any national ambient air quality standard on St. Croix. Thus, EPA approves this revision to the Virgin Islands Implementation Plan. In addition, this action is effective immediately because it imposes no hardship on the affected source, and no purpose is served by delaying the effective date.

Dated: January 26, 1978.

DOUGLAS M. COSTLE,
Administrator, Environmental Protection Agency.

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart CCC—Virgin Islands

1. In § 52.2770, paragraph (c) is amended by adding new subparagraph (9) as follows:

§ 52.2770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(9) Revision submitted on August 29, 1977, by the Governor of the Virgin Islands which allows, under provisions of 12 V.I.R. & R. 9:204-26, the relaxation of the sulfur-in-fuel-oil limitation to 1.5 percent, by weight, for the Virgin Islands Water and Power Authority's Christiansted Power Plant.

2. In § 52.2780, paragraph (b) is revised as follows:

§ 52.2780 Control strategy for sulfur oxides.

* * * * *

(b) The following parts of regulation 12 V.I.R. & R. 9:204-26, "Sulfur Compounds Emission Control," as submitted to EPA on January 21, 1976 and as amended and resubmitted to EPA on June 3, 1976 are approved:

(1) The entire regulation as it applies to the islands of St. Thomas and St. John.

(2) The entire regulation as it applies to the Virgin Islands Water and Power Authority's Christiansted Power Plant on the island of St. Croix.

(3) The entire regulation excluding subsection (a)(2) as it applies to the remaining sources on the island of St. Croix.

Subsection (a)(2) of the regulation is not approved as it applies to the remaining sources on St. Croix because of the inadequacy of the control strategy demonstration noted in paragraph (a) of this section. Accordingly, all sources on St. Croix with the exception of the Virgin Islands Water and Power Authority's Christiansted Power Plant are required to conform to the sulfur-in-fuel-oil limitations contained in 12 V.I.R. & R. 9:204-26 as originally submitted to EPA on January 31, 1972.

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).)

[FR Doc. 78-2700 Filed 1-30-78; 8:45 am]

[4110-12]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE, (ASSISTANCE PROGRAMS) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES, TITLE XX

PART 229—STANDARD SETTING REQUIREMENTS FOR MEDICAL AND NONMEDICAL FACILITIES WHERE SSI RECIPIENTS RESIDE

Publication of Materials on These Standards in the State's Proposed and Final Services Plans

AGENCY: Administration for Public Services (APS), Office of Human DevelopmServices (OHDS), Department of Health, Education, and Welfare.

ACTION: Final regulations.

SUMMARY: These regulations: (1) Require States to designate one or more State or local authorities to establish and enforce standards for residential facilities where significant numbers of SSI recipients reside or are likely to reside. (An SSI recipient who resides in such a facility that is found in violation of the standards is subject to a reduction in his SSI payment by the Social Security Administration to the extent, if any, that a State supplementary payment or other State payment is made for medical or remedial care provided to him by the facility); and (2) Require that the title XX agency in each State make available for public review, certain information about the standards and their enforcement in the State's proposed and final annual services plans.

The basis for the amendments to Part 228 and the new Part 229 are the provisions of section 505(d) of Pub. L. 94-566, enacted October 20, 1976. In addition to codifying the statutory requirements of the law (which amends title XVI (SSI) of the Social Security Act), the purposes of the proposed regulations are: (a) To encourage development of safe and appropriate residential settings as an alternative to institutional living for appropriate elderly individuals and handicapped children and adults; (b) to limit the use of SSI funds for substandard facilities for such persons; and (c) to publicize the standards and their enforcement procedures through the public review process of the title XX annual services plan.

DATES: October 1, 1977 is the effective date for Part 229. Under the amended Part 228, publication dates for the title XX proposed and final services plans are those specified by the title XX statute, relative to the first title XX program year of each State commencing after October 1, 1977. The Department finds that there is good cause to dispense with Notice of Proposed Rulemaking since the law is already in effect and the time period required for the Notice of Proposed Rulemaking would further delay the prompt and complete implementation of the law in some States. Accordingly, in light of the immediacy and urgency of the situation, these regulations take effect immediately. However, comments will be considered within a 90-day comment period and any changes found necessary will be made. Consideration will be given to written comments or suggestions received on or before May 1, 1978. When commenting please refer to APS-1. Agencies and organizations are requested to submit their comments in duplicate.

ADDRESS: Address comments to: Commissioner, Administration for Public Services, Department of Health, Education, and Welfare, P.O. Box 1923, Washington, D.C. 20013. Comments will be available for public inspection, beginning approximately two weeks after publication, in room 2225 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each

week from 8:30 a.m. to 5 p.m. (area code 202-245-9415).

FOR FURTHER INFORMATION, CONTACT:

Mrs. Johnnie U. Brooks, 202-245-9415.

SUPPLEMENTARY INFORMATION:

BACKGROUND

These regulations implement section 505(d) (the "Keys Amendment") of Pub. L. 94-566, "The Unemployment Compensation Amendments of 1976." Section 505(a) of the same amendment provides that, as of October 1, 1976, the prohibition against SSI payments to persons in public institutions would not be applicable in the case of publicly operated community residences which serve no more than 16 residents. The Social Security Administration has the responsibility for defining these community residences.

The legislative history of section 505(d) indicates that Congress did not want States and localities to be discouraged from creating and subsidizing residential facilities for individuals who need a place to live but do not need the kind of care which is provided in a Medicaid institution. But at the same time, the Congress was concerned that the SSI program not become a source for funding substandard facilities, especially those which are not certified to participate in the Medicaid program but do provide medical care. Therefore, it added section 505(d) to require establishment and enforcement of standards for all types of facilities where SSI recipients reside. Congress then utilized the mechanism of the title XX public review process (publication of proposed and final services plans) to inform and involve the public with the standard-setting authorities in the setting and enforcement of standards.

INPUT FROM INTERESTED PARTIES

In the development of these proposed regulations, the Administration for Public Services has consulted with advocacy groups, State directors of human services, the National Governors Conference and various bureaus in the Department including the Social Security Administration, the Administration on Aging, the Medical Services Administration, the Children's Bureau, the Developmental Disabilities Office, and the President's Committee on Mental Retardation. Discussions were also held with Congressional staff who had been involved in preparation of the legislation. In the course of this communication with interested parties, the following points were clarified:

1. *How define "significant numbers" of recipients.* The law requires that standards be established and enforced for "any category of institutions, foster home, or group living arrangements in which (as determined by the State) a significant number of recipients of supplementary security income benefits is residing or is likely to reside." The Department is interpreting this to mean that standards must be set for the "kinds of facilities" in which a significant number of SSI recipients lives or is expected to live. The number of SSI recipients living in a facility at any one time is not the determining factor. The rationale for this interpretation is that the Department believes that this is the only way to insure that standards are established for the smallest kind of group living arrangement specified in the legislation—foster homes. As few as one or two SSI residents may live in a foster home but there may be hundreds of such homes in the State housing SSI recipients.

2. *Requirement to publish summary of standards.* Section 505(d) specifically requires publication of a summary of each standard in the title XX services plans. (This requirement is set forth in the regulation under § 228.29(b)(4).) Accordingly, even though States have already published standards for some or all of the facilities covered by this law in accordance with the administrative procedures in their States and have accepted public comment on them, a summary of each standard would still have to be published in their title XX services plans.

Since interested persons may secure a copy of a full standard from the standard-setting authority upon request, the "summary of each standard" published in the title XX services plan need be no more than a listing of the items that comprise the standard. For instance, some of the items for standards for foster care homes for children might be health of the caretaker, numbers and ages of children, space, safety, etc.

3. *Kinds of facilities requiring standards.* Discussion took place about the "kinds" of residential facilities States are required to set standards for under the law. The law speaks to establishing and enforcing standards for "*any* category of institutions, foster homes, or group living arrangements"; and instructs the Social Security Administration to reduce the amount of an SSI benefit to an SSI recipient living in a facility to the extent, if any, of a State payment made for medical or remedial care provided by that facility to the SSI recipient "as a resident or inpatient of such institution if such institution is not approved as meeting the (required) standards * * *."

In light of this language, questions arose as to (1) whether, instead of reducing an SSI recipient's benefits, some other sanction could be applied when a facility is determined to be substandard; (2) whether standards had to be established for all institutions, including those that provide medical care; and if so (3) whether this would also include those that have been certified under Medicaid (i.e., title XIX of the Social Security Act).

With respect to question (1) the answer is no. The law and its legislative history is clear. The sole sanction provided is to reduce the SSI recipient's benefits to the extent, if any, that a State supplementary payment or other State payment is made for medical or remedial care provided to him by a facility that is found to be in violation of the established standards.

However, it should be noted that the Department recognizes the inequity of penalizing a recipient for the failings of the facility, and therefore intends to explore with Congress the possibility of amending the prescribed sanction. Comments are particularly welcome on the sanction itself and the Department's intention to seek to have it changed.

With respect to question (2) the answer is yes. Since the law literally requires standards to be established for "any category of institutions," and since an individual's SSI benefits would be reduced to the extent that a State makes a payment to a facility for the provision of medical care if that facility does not meet the established standards, the Department believes that Congress expressed a clear desire to have standards established for facilities that provide medical care, as well as any other category of institution. Nothing to the contrary is contained in the legislative history.

With respect to question (3), however, the answer is no; although standards have to be established for institutions that provide medical care, the Department believes that this requirement does not extend to those that have been certified under Medicaid or Medicare. The basis for this belief is the legislative history surrounding the establishment of these standards. It provides that:

"* * * the committee is concerned that some of the Federal Medicaid standards * * * may be inappropriate for some of the institutions (for which standards need to be established). The committee continues to be concerned, however, that the SSI program not become a source for funding substandard institutions. Therefore, the committee bill adds a provision which would require each State to establish * * * standards for any category of institutions * * * in which * * * a significant number of SSI recipients is residing * * *." (Emphasis supplied.) (S. Rep. No. 1265, 94th Cong., 2d Sess. 29)

In the Department's view, this legislative history indicates a desire on the part of Congress to regulate substandard facilities by establishing standards for all categories of institutions not currently subject to Federal standards; namely, those that have not been certified under Medicaid (or for

that matter, those that have not been certified under Medicare).

The Department recognizes, however, that its view could be said to conflict with the literal requirement of the law itself—to establish standards for "any category of institutions." Accordingly, the Department would particularly welcome comments on the above interpretation.

4. *Facilities with more than room and board.* Discussions also took place on the question of whether standards had to be established for facilities that merely provide room and board. The answer is no. The Department simply does not believe that the kinds of facilities for which Congress required standards to be established include those that do not provide some type of care and/or protective oversight. If it were otherwise, standards would have to be established for every conceivable type of facility which houses SSI recipients, including their own homes and apartments.

Accordingly, with the exception of facilities certified under the Medicaid or Medicare programs, standards must be established and enforced for all kinds of medical and non-medical facilities which provide more than room or board. These may range from social care type facilities for ambulatory individuals who are capable of either beginning again to prepare for independent living or whose condition is so stabilized that they can leave a highly structured setting for one which approximates independent living, to a facility which provides on-site medical or remedial care. The variety in between is seemingly infinite, but the residential facilities for which standards have to be established have the common characteristics of providing room and board *and* protective oversight to the degree needed by each resident. The statute permits such facilities to be operated publicly, by a private, non-profit agency, or by a private for-profit agency. Any category of SSI recipient may be served—the aged, mentally retarded, drug or alcohol abusers, and physically handicapped children or adults.

These residential facilities are known by variety of names such as foster care homes, board and care homes, domiciliary care facilities, congregate care facilities, "unlicensed nursing homes," halfway houses, personal care homes, shelter care, and the like.

"Protective oversight" embodies such things as daily awareness of the resident's functioning, his or her whereabouts, the ability to intervene if a crisis arises for a resident, supervision in areas like nutrition or medication or actual provision of medical care, and a 24-hour responsibility for the welfare of the resident.

services needed by the residents may be provided by the facility or be secured from community resources.

In sum, standards need not be established for facilities which provide room and board only. Nor need they be established for living units such as apartments, single dwellings or cooperative housing where the residents lead essentially independent lives, housing and feeding themselves. Even if an agency sends a worker to "look in" or even to provide services to individuals living in such housing, the "residential unit itself" does not meet the conditions of providing the resident with both room and board and protective oversight; and therefore standards need not be established for such a facility.

5. *Range of standards.* Questions arose as to whether the list of standards provided in the law—for admission policies, safety, sanitation, and protection of civil rights—is the exclusive list. the answer is no; that list is merely exemplary. The rest of the legislation concerning standard-setting cannot be ignored: "Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved * * *." There might well be other standards that the States feel should be established so long as the standards are appropriate to the needs of the SSI residents or to the character of particular facilities. for instance, standards may be established to require ramps, hallways and doors wide enough to accommodate wheelchairs; grabrails in the bathroom, in corridors, or on stairs for the frail and handicapped; suitable playing space for handicapped children; or medical and other standards in relation to the provision of or supervision of medical care. In short, nothing in section 505(d) should be construed to mean that if a State already has standards for various kinds of facilities or is developing standards for them, that the scope of the standards should be limited to admission policies, safety, sanitation and the protection of civil rights.

6. *Waiver of standards.* The legislation permits standards to be waived upon proper justification by the State. Therefore, if the State has standards which it believes may be waived under certain circumstances, it must develop criteria for such waiver and, upon request by interested individuals, must provide them with the names and addresses of facilities to which it has granted waivers and the particulars of the waiver of a standard.

7. *Initial publication of standards in the services plans.* With regard to when title XX agencies would be required to make the initial publication of the required summary of standards in their proposed and final services plans (as required under § 228.29-a), several factors had to be considered:

First, the title XX legislation specifically states that the proposed services plan must be published at least 90 days before the beginning of a State's program year. The public must have at least 45 days to comment on the plan. The final services plan must be published no earlier than 45 days after publication of the proposed plan and prior to the beginning of the State's program year. Moreover, amendments to the final services plan must be published in proposed and final form with a 30-day comment period on the proposed amendment.

Second, States vary in the timing of their program years because they may use either the Federal fiscal year (October 1-September 30) or the State fiscal year, as their title XX program year. Therefore, publication scheduling of their services plans is not uniform nationwide. Over half the States use the State fiscal year and must publish their proposed plans by April 1, and their final plans by June 30 for a July 1-June 30 program year. Other States using the Federal fiscal year must publish their proposed plans by July 1 and their final plans by September 30.

Third, there could be great disparity among the States in the amount of time needed to establish or perfect a system for setting and enforcing standards and reporting violations to the Social Security Administration.

Fourth, the legislation provides no new funding to any State agency for the activities required by the law, including publication of the standards materials by the title XX agency. This material might be rather lengthy and so would increase the cost of producing and mailing the proposed and final services plans. Another added expense would be amending the final services plan to incorporate this material instead of including it in the services plans as they are published on their regular schedule.

Fifth, the legislation amends title XVI (SSI) of the Social Security Act with respect to standard-setting and enforcement, effective as of October 1, 1977.

The regulation has attempted to provide a realistic reconciliation of the problems described by requiring title XX agencies to publish the summary of standards in their proposed and final services plans "for their first title XX program year commencing after October 1, 1977." However, States and standard-setting authorities must proceed, as of October 1, 1977, to carry out their responsibilities as set forth in Part 229. Title XX agencies are not precluded from publishing the required material in their services plans before the dates in the regulation if they so choose. But with respect to orderly planning and efficient use of title XX funds, no justification could be found for *requiring* States to assume the added expense of amend-

ing their present plans solely to provide the information on standards.

8. *How to implement Part 229.* The law is not specific on several important organizing and operational responsibilities integral to implementing Part 229. It merely requires "each State" to do the following:

Determine which kinds of facilities house or will house a significant number of SSI recipients;

Designate State or local authorities to establish and enforce standards;

Send information on violations to the Social Security Administration; and

Certify to the Secretary of HEW that all the requirements of section 505(d) have been met.

It should be remembered that in these respects the law is amending title XVI (SSI) of the Social Security Act, not title XX. If title XX were being amended, the lines of responsibility would be clear.

During the discussions with interested parties, referred to earlier, several solutions were proposed:

Determination of the kinds of facilities which should be subject to the standards might be made by those agencies in the State that have an interest in deinstitutionalizing individuals who might then be eligible for SSI payments. District Offices of the Social Security Administration with their knowledge of where SSI recipients now live could be regarded as a resource.

Standard-setting agencies of various kinds already exist in all States. For instance, under its administrative State plan, the title XX State agency is required to designate or create State or local agencies to establish and enforce standards for institutions or foster homes where "recipients of title XX services" live. Other State agencies have standards for community based living facilities, and it is expected that advocates for various groups of old or handicapped persons will be active in urging relevant agencies to set and enforce standards in the interests of deinstitutionalization and eligibility for SSI. Existing agencies with expertise, such as the State Agencies on Aging, can be an invaluable resource in setting standards for housing of the elderly. And a State may wish to deem as meeting the standards required by the Keys Amendment, those medical (not certified for Medicaid) and non-medical residential facilities which are accredited by the Accreditation council for Facilities for the Mentally Retarded and other Developmentally Disabled Individuals of the Joint Commission on Accreditation of Hospitals.

In Departmental consultations, the Social Security Administration decided that information on violations of the standards should be sent to their Regional Offices. SSA also expressed the hope that some kind of mechanism would be set up in each State to coordinate the results of monitoring, particularly in regard to violations.

In January 1977, the Department sent a letter with information on the Keys Amendment to all Governors, the National Governors Conference and the Association of State Legislators. It was the Department's intent that this communication would result in the State executive office providing the needed coordination or designating an individual or an agency to perform this function.

The regulation specifies that the Governor of each State or his designee will certify to the HEW Secretary that the requirements of § 229.30 have been met. The certification is to be sent to the HEW official in the Regional Office who receives title XX plans. This is the same procedure used under the title XX program to transmit plans from the State to the Regional Offices.

9. *Standard-setting and licensing.* During the various group meetings held by the Department on developing the regulations, the question arose about whether licensing could be construed as meaning setting and enforcing standards within the meaning of section 505(d). The word "licensing" is not used in the regulation, but if a State's licensing system is congruent with standard-setting and enforcement as required by section 505(d), that system may be used in the State.

10. *"Warning System."* Great concern was expressed that SSI recipients were the ones penalized (by a reduction in their SSI benefits equal to State payments for medical care provided by the facility) if they reside in a facility that is found not to meet the required standards. This concern, plus apprehension that the residents might also be in danger because of a standard not being observed, led to the requirement for a "warning system" in the enforcement procedure. The warning system encompasses a time period during which: (a) A deficient facility is given the opportunity to correct a violation by a certain date; and (b) if the facility fails to make the correction, the standard-setting authority must arrange to inform all residents in writing of the standard not being met; provide residents with a list of approved facilities and agencies which will help them to move; and give all the residents a period of time to relocate if they wish before the standard-setting authority reports the deficient facility to the Social Security Administration. The purpose is to warn residents that they do not have the protection of the standard and to give them time to move if the absence of the standard endangers them or penalizes their SSI benefits. It will be noticed that all (not just SSI) residents are warned of the deficiency and given the opportunity to move, in the interests of equity. Many States undoubtedly already have such warning mechanisms built into their enforcement procedures. However, they will have to compile a list of approved facilities and enlist the aid of advocates in helping persons in deficient facilities to relocate if they want to.

1. 45 CFR 228.29 is amended by revising paragraphs (a) and (b) and adding a § 228.29-a, to read as follows:

§ 228.29 Program coordination and utilization.

The services plan shall describe:

(a) How the planning and the provision of services under the program will be coordinated with and utilize the following programs:

(1) Under the Social Security Act:

(i) Title IV-A, AFDC (including WIN);

(ii) Title IV-B, Child Welfare Services;

(iii) Title XVI, SSI; (see paragraph (b)(4) of this section regarding State services plan content on standards for facilities housing SSI recipients); and

(iv) Title XIX, Medical Assistance (Medicaid); and

(2) Other appropriate programs for the provision of related human services within the State—for example, programs for the aging, children, developmentally disabled, alcohol and drug abusers; programs in corrections, public education, vocational rehabilitation, mental health, housing, medical and public health, employment and manpower.

(b) The service plan shall contain:

(1) A general description of the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population; and

(2) A general description of the steps taken to assure public participation in the development of the services program, including contacts with public and private organizations, officials of county and local general purpose government units, and citizen groups and individuals, including recipients of services.

(3) A description of the extent to which the title XX agency utilizes grants and otherwise encourages child day care providers under contract to employ AFDC recipients; and

(4) Information on standards established by designated standard-setting authorities for residential facilities for SSI recipients, as follows:

(i) A summary (listing of the items) of each standard established for each type of facility in which the State has determined that a significant number of SSI recipients resides or will reside, in accordance with § 229.20(a) of this chapter; and

(ii) The name and address of each standard-setting agency designated in accordance with § 229.10 of this chapter, and a statement that interested individuals may obtain from such agencies without charge a single copy of:

(A) A complete set of standards for each type of facility;

(B) The procedures used in the State to ensure the enforcement of each standard;

(C) The criteria for waiving each standard and a list of the names and addresses of facilities and the standards for which they have been granted waivers; and

(D) The list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

§ 228.29-a Timing for initial publication of standards for residential facilities for SSI recipients.

States shall publish the information about standards required under § 228.29(b)(4) no later than the publication dates of their services plans for their first title XX program year starting after October 1, 1977.

(a) States with a program year starting in July shall publish this material no later than April 1, 1978 (proposed services plan), and June 30, 1978 (final services plan).

(b) States with a program year starting in October shall publish this material no later than July 1, 1978 (proposed services plan), and September 30, 1978 (final services plan).

3. 45 CFR 228.33 is amended by revising paragraphs (g), (h), and (i) to read as follows:

§ 228.33 The public review process.

* * * * *

(g) *Display advertisement for the proposed plan.* A display advertisement shall at least:

* * * * *

(9) Include a statement that the plan includes information on standards for non-medical and medical (other than those certified for Medicaid or Medicare) residential facilities for SSI recipients; a system for enforcing the standards; and the names and addresses of standard-setting authorities who will respond to requests for information on standards, their enforcement, waivers, and the identity of deficient facilities.

(h) *Summary of proposed services plan.* If the State publishes a services plan summary (to be provided free in lieu of a free copy of the entire services plan), it shall contain at least the following information:

* * * * *

(10) A listing of the items that comprise each standard established for each type of residential facility where a significant number of SSI recipients resides or is likely to reside, and the name and address of each standard-setting authority from which interested individuals may obtain, without charge:

(i) A full copy of each standard,

(ii) A copy of the procedures used in the State to insure enforcement of the standards;

(iii) A copy of the criteria for waiving each standard and a copy of the list giving the names and addresses of facilities granted waivers; and

(iv) A copy of the list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

(i) *Display advertisement of the final services plan.* The display advertisement of the final services plan shall contain at least:

(1) A statement that the final services plan has been published and is available for review by the public;

(2) An explanation of any differences between the proposed and final services plans and the reasons therefor (including any differences in the standards for residential facilities for SSI recipients, or facts about the standard-setting authorities);

2. A new Part 229 is added to Chapter II to read as follows:

Sec.
229.0 Scope.
229.1 Definitions.
229.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.
229.20 Responsibilities of designated standard-setting authorities.
229.30 State certification to the Department of Health, Education, and Welfare.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

229.0 Scope.

This part requires States, effective October 1, 1977, to create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which, as determined by the State, a significant number of recipients of Supplemental Security Income (SSI) benefits resides or is likely to reside. SSI residents who live in relevant facilities which violate any of the standards will be subject to a reduction in their SSI payments by the Social Security Administration. The reduction will be in an amount equal to any State supplementary benefit or other payment made by the State for any medical or remedial care provided them by the facility.

229.1 Definitions.

For purposes of this part:

(a) *Any category of institutions, foster homes, and group living arrangements* means residential facilities which provide both room and board *and* continuous protective oversight to the residents and are:

(1) Non-medical or medical facilities of any size (other than those certified for participation in the Medicaid or Medicare programs) which are publicly or privately operated on a nonprofit or for-profit basis.

(b) *Medical or remedial care* means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and the care is provided by or under the direct supervision of a medical practitioner or other health professional licensed by the State or credentialed by the appropriate professional organization.

229.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.

(a) Each State shall determine the kinds of residential facilities (as defined under § 229.1) in which a significant number of SSI recipients resides or is likely to reside.

(b) Each State shall create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of any standards for the residential facilities identified in accordance with paragraph (a) of this section.

§ 229.20 Responsibilities of designated standard-setting authorities.

Each standard-setting authority shall, effective October 1, 1977:

(a) *Establish standards.* (1) The standards shall be appropriate to the needs of the SSI recipients residing in the facilities and to the character of the facilities involved. In addition, they shall govern such matters as:

(i) Admission policies (including a continuous needs assessment and referral to appropriate resources);

(ii) Safety;

(iii) Sanitation (cleanliness and hygienic procedures); and

(iv) Protection of civil rights (under the United States Constitution, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other relevant provisions of Federal and State laws).

If a standard-setting authority has standards already in place, including those listed in subparagraphs (i) through (iv) of paragraph (a)(1) of this section, the standards meet the requirement.

(2) Under this requirement, the authority may provide for waivers of a standard under specified criteria.

(3) The authority shall notify the public and providers about the need

for affected facilities to meet its standards.

(4) The authority shall provide the State's title XX agency, annually (as arranged with that agency), with a summary of each standard for each kind of facility, for publication in the title XX services plans.

(b) *Establish procedures for enforcing the standards.* The enforcement procedures shall include:

(1) Periodic inspection of facilities;

(2) Provision of technical assistance; and

(3) Use of a warning system which provides for an opportunity for a deficient facility to comply and for the residents to move out if the facility fails to do so. The standard-setting authority shall establish specific time periods:

(i) For a deficient facility to carry out a plan approved by the standard-setting authority to correct any violation of a standard which cannot be waived; and

(ii) For the standard-setting authority, if the facility fails to comply, to arrange for informing in writing all residents of the facility (including, where appropriate, the families, guardians, or representative payees of SSI residents) of the standard which the facility does not meet, and of the time period during which residents may relocate if they wish before the authority reports the deficient facility to the Social Security Administration. The standard-setting authority shall also provide all residents with a list of approved facilities and agencies which will help them move if they wish. The purpose is to let the residents know they do not have the protection of the standard, and to give them time and assistance to move if the absence of the standard endangers them or penalizes their SSI benefit.

(c) *Report deficient facilities to the Social Security Administration.* (1) At the conclusion of the relevant time period(s) given a deficient facility to correct violation of a standard or for residents to move out of a facility, as described in paragraph (b)(3) of this section, each designated standard-setting authority shall report to the appropriate Regional Office of the Social Security Administration the name and address of any facility which no longer meets the standards and the effective date of the violation. The purpose is to enable the Social Security Administration to reduce SSI benefits to SSI residents living in a facility in violation of standards, in accordance with the requirements of Section 505 of Pub. L. 94-566, "The Unemployment Compensation Amendments of 1976."

(2) If and when a deficient facility again meets the standards, the standard-setting authority shall notify the Social Security Administration of the effective date of its approval of the facility.

(d) *Maintain and make records available.*—(1) *Maintenance of records.* Each authority shall:

(i) Keep a record of the details of each violation of a standard by a facility; and

(ii) If a standard is waived, maintain a record including the name and address of each facility granted a waiver, the standard waived, and the justification for waiving it.

(2) *Availability of records to the public.* Each authority shall make available without charge to interested individuals a single copy of:

(i) A complete set of standards for each type of facility;

(ii) The procedures used in the State to insure the enforcement of standards;

(iii) The list of facilities (name and address) that have been granted waivers of each standard, including the justification for the waiver; and

(iv) The list of facilities (name and address) found in violation of a standard, including the details of each violation.

§ 229.30 State certification to the Department of Health, Education, and Welfare.

(a) Each State shall certify annually to the HEW official in the Regional Office who receives title XX plans, that:

(1) It has created or designated an authority or authorities to establish, maintain, and insure the enforcement of standards, in accordance with § 229.10;

(2) It has made available, without charge, information about full standards, enforcement procedures, and, where applicable, waivers of standards, and violations of standards by specific facilities, as required under § 229.20(d)(2);

(3) It has published in the State's title XX proposed and final annual services plans:

(i) A summary of the content of each standard established for each type of facility, in accordance with § 229.20(a); and

(ii) The name and address of each designated standard-setting authority from which interested individuals may obtain, without charge, the information about full standards, enforcement procedures, waivers of standards, and violations, in accordance with § 229.20(d); and

(4) Each standard-setting authority has reported to the relevant Social Security Administration Regional Office the names and addresses of facilities which are in violation of standards, in accordance with § 229.20(c).

(b) The certification shall be in the form of a factual statement signed by the Chief Executive of the State or his designee and submitted within the first quarter following the beginning of a State's title XX program year.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.771, Social Services for Low Income and Public Assistance Recipients.)

NOTE.—The Administration for Public Services has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: September 13, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: January 20, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-2598 Filed 1-30-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This Order corrects erroneous cross references in certain rules to other rules and is editorial in nature only.

EFFECTIVE DATE: February 10, 1978.

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

FOR FURTHER INATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Adopted: January 23, 1978.

Released: January 25, 1978.

Order. In the matter of reregulation of Radio and Television Broadcasting—Editorial Amendments.

1. As a result of the continuous study of the broadcast rules by the Reregulation Staff of the Broadcast Bureau, several errors have been noted in certain rules which contain cross references to other rules. The existing erroneous cross references are misleading and confusing to users of the rules and by this 20th Reregulation Order are being editorially corrected.

2. We conclude that adoption of the editorial amendments shown in the attached appendix will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provi-

sions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

3. *Therefore, it is ordered*, That pursuant to sections 4(i), 303(r) and 5(a)(1) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, Part 73 of the Commission's rules and regulations is amended as set forth below, effective February 10, 1978.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

Part 73 of Title 47 CFR is amended to read as follows:

§ 73.50 [Amended]

1. In paragraph (a)(2) of § 73.50, the term "Subpart F" is corrected to read "Subpart J."

§ 73.69 [Amended]

2. In the first sentence of § 73.69, paragraph (d)(3), the reference "(c)(2)" is corrected to read "(d)(2)."

3. In the last sentence of § 73.69, paragraph (d)(5), the reference "(c)" is corrected to read "(d)."

§ 73.689 [Amended]

4. In the first sentence of § 73.689(a)(2)(iii)(A), the reference to paragraph "(a)(1)" is corrected to read "(a)(2)(i)."

[FR Doc. 78-2628 Filed 1-30-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines critical habitat for the Houston toad (*Bufo houstonensis*) in a portion of its range. This rule requires all Federal agencies to insure that actions autzed, funded, or carried out by them do not adversely affect this Critical Habitat. The areas determined as critical habitat are located in Bastrop and Burleson Counties, Tex.

DATE: This rule becomes effective on March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director-Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In the FEDERAL REGISTER of May 26, 1977 (42 FR 27009-27011), the Fish and Wildlife Service published a proposed determination of critical habitat for the Houston toad (*Bufo houstonensis*). This critical habitat was described as:

(A) *Bastrop County.* From the junction of a line corresponding to 30°12'00" N. and Texas State Highway 95 east along a line corresponding to 39°12'00" N. to where it intersects a line corresponding to 97°7'30" W. to where it intersects the Colorado River, west and northwest along the north bank of the Colorado River to the city limits of Bastrop, and north through Bastrop along Texas State Highway 95 to where it intersects a line corresponding to 30°12'00" N.

(B) *Burleson County.* A circular area with a one mile radius, the center being the north entrance to Lake Woodrow from Texas FM 2000.

(C) *Harris County.* At the northwest corner of Houston, Tex., from the junction of Tanner and Brittmoore Roads east on Tanner Road to its junction with Gessner Road, south on Gessner Road to its junction with Clay Road, west on Clay Road to its junction with Brittmoore Road, and north on Brittmoore Road to its junction with Tanner Road.

(D) *Harris County.* Six areas in south Houston and Pasadena, Tex. (1) From the junction of Harwin Drive and Fondren Road east on Harwin Drive to its junction with the Southwest Freeway, southwest on the Southwest Freeway to its junction with Fondren Road, and north on Fondren Road to its junction with Harwin Drive.

(2) From the junction of Hillcroft Avenue and South Main Street northeast on South Main Street to its junction with Holmes Road, northeast on Holmes Road to its junction with Knight Road, south on Knight Road to its junction with Almeda Road, northwest on Almeda Road to its junction with West Orem Drive, west on West Orem Drive to its junction with South Post Oak, south on South Post Oak to its junction with Sims Bayou, west along the north bank of Sims Bayou to where it crosses Hillcroft Avenue, and north on Hillcroft Avenue to its junction with South Main Street.

(3) From the junction of the Gulf Freeway and Shawnee Drive east on Shawnee Drive to its junction with Rodney, south on Rodney to its junction with Edgebrook Drive, southwest on Edgebrook Drive to its junction with the Gulf Freeway, and northwest on the Gulf Freeway to its junction with Shawnee Drive.

(4) From the junction of Vista Road and Maple east on Vista Road to its junction with Watters Road, south on Watters Road to its junction with Crenshaw Road, west on Crenshaw Road to its junction with Young, north on Young to its junction with Snodden Avenue, east on Snodden Avenue to its junction with Maple, and north on Maple to its junction with Vista Road.

(5) From the junction of Carson and Martindale south on Martindale to its junction with Almeda-Genoa Road, east on Almeda-Genoa Road to its junction with Mykawa Road, south on Mykawa Road to its junction with Clear Creek, east along the north bank of Clear Creek to where it crosses Telephone Road, north on Telephone Road to its junction with Fuqua, east on Fuqua to its junction with the Gulf Freeway, northwest on the Gulf Freeway to its junction with Meldrum, west on Meldrum to its junction with Monroe Road, south on Monroe Road to its junction with Lanham, west on Lanham to its junction with Telephone Road, north on Telephone Road to its junction with Brisbane, west on Brisbane until it ends, then continuing due west on a line which would intersect Mykawa Road near its junction with Selinsky Road, south on Mykawa Road to its junction with Carson, and west on Carson to its junction with Martindale.

(6) From the point at which Horsepen Bayou crosses Bayarea Boulevard, northeast on Bayarea Boulevard to the point at which it begins to form the southeastern boundary of the city of Pasadena north and northwest along the western Pasadena city boundary to where it contacts the Houston City boundary, west along the southern boundary of Houston to where it crosses Horsepen Bayou, and southeast along the north bank of Horsepen Bayou to where it crosses Bayarea Boulevard.

In the May 26, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 27009-27011) and associated May 27, 1977, press release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period May 26, 1977, to December 2, 1977, were considered.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Comments were received from 26 individuals and organizations. Of these, 16 were in favor of all or most parts of the proposal, seven were opposed to all

or parts of the proposal, and three expressed no direct opinion on the proposal but added information relating to their specific organization or agency.

Congressman Bob Gammage (22nd District, Texas) expressed concern that, should the proposed Critical Habitat area remain unchanged, development in Harris County could be frozen. He also stated that he had been informed that the boundaries were scientifically unsubstantiated and that the lines for the boundaries were arbitrarily drawn. He suggested that public lands be evaluated, such as Clear Creek and Armand Bayou, since these areas would not be likely to be encroached on by private interests. This would be of great value to the orderly development of Harris County, according to Congressman Gammage. Finally, he felt a compromise could be reached that would allow development in Harris County and will prevent intrusion on the habitat of the Houston toad.

Ted L. Clark (Director, Wildlife Division, Texas Parks and Wildlife Department) concurred with six of the proposed areas, recommended the deletion of one, and expansion of the remaining two. Specific recommendations of that Department were:

A. The Department concurs with the Bastrop County area as defined in the proposed rules since Department personnel have observed this species there in moderate numbers in each of the last four years (1974–1977).

B. The Department also concurs with the area proposed as Critical Habitat in Burleson County since Dr. Robert A. Thomas, Texas A & M University, has found the Houston toad there in low numbers in each of the last four years (1974–1977).

C. The Department recommends that the northwest corner of Houston, Tex., be modified to include that portion of Addicks Reservoir southwest of the reservoir levee east of Longitude 90°35′23″ and north of Latitude 29°50′35″. Although Houston toads have not been reported from the Addicks Reservoir area, the habitat there is almost identical to that of the type locality a short distance away.

D. Harris County, six areas in South Houston and Pasadena. Based on the information furnished by Mr. William L. McClure, Texas Department of Highways and Public Transportation, in conjunction with our research and others, the Texas Parks and Wildlife Department recommends the following:

1. That the triangle between Harwin, Fondren and the Southwest Freeway be deleted since practically all of the land surface is covered with commercial, industrial, or residential development and is drained by underground storm sewers. Therefore, the area cannot be considered Houston toad habitat.

2. That the area as defined in the proposed rules by junction of Hillcroft Avenue-South Main-Holmes Road-Knight Road-Almeda Road-West Orem Drive-South Post Oak-Sims Bayou-Hillcroft Avenue be designated as critical habitat. Although no recent Houston toad observations have been recorded for the area which has been approximately one-third developed, it does contain suitable habitat and the Houston toad might reasonably be expected to exist there.

3. That the area bounded by the Gulf Freeway, Shawnee Drive, Rodney, and Edgebrook Drive be considered as critical habitat since Houston toads were observed in this area in 1975 and 1976.

4. That the area bounded by Vista Road, Watters Road, Crenshaw Road, Young, Snodden Avenue, and Maple Road be designated as critical habitat since Houston toads were observed in this area in 1976.

5. That the area bounded by Carson, Martindale, Alemeda-Genoa Road, Mykawa Road, Clear Creek, Telephone Road, Fuqua, Gulf Freeway, Meldrum, Monroe Road, Lanham, Telephone Road, Brisbane, Mykawa, and Carson Road be considered as critical habitat since historically, Houston toads have been previously recorded there in good numbers, though none have been recently observed.

6. That the area near Horsepen Bayou be expanded as follows: "Horsepen Bayou intersection with Bay Area Boulevard, northwest along the west bank of Armand Bayou to Genoa-Red Bluff Road, west along Genoa-Red Bluff Road to a projected extension of the easternmost north-south runway of Ellington Air Force Base, south along the extended line of such runway to its intersection with Horsepen Bayou, and easterly along the north bank of Horsepen Bayou to Bay Area Boulevard. This expansion would include additional suitable habitat in which the Houston toad was observed in good numbers in previous years, though none recently. The habitat where these observations were made has remained relatively unchanged, particularly on Ellington Air Force Base."

Finally, Mr. Clark stated that the Texas Parks and Wildlife Department will continue to monitor areas of known and potential Houston toad habitat in an effort to better delineate the distribution of this Endangered species.

Lauren E. Brown (Illinois State University) stated that he had reviewed all areas of critical habitat and could make no additional alterations. He reviewed his past interest in *B. houstonensis* (research and recommendations for Endangered status in 1968) and indicated that all of Harris County is potentially critical habitat. He urged the Department of the Interior to resist at all costs any attempts by the City of Houston, the State of Texas, Harris County, or any other private or public special interest groups that pressure the Service to abandoning proposals for critical habitat in the Houston area.

Dr. Brown reiterated that little State, Federal, or local money had been spent on the species in spite of its very critically Endangered status. He states that this is in direct contrast with species such as the whopping crane and California condor. He points out that the Houston toad, with probably not more than 300 individuals in existence, has been repeatedly mentioned by various authors as a species which should have a high priority for protection and rehabilitation. Nevertheless, according to Dr. Brown, this species has been totally neglected. He states that the proposal of critical habitat represents a positive step forward if the Service would pay more attention to conserving this species. He concludes that the Houston toad has a high potential for being saved.

James M. Scott, Jr. (Houston, Tex.) suggested that the area called Sharpstown be deleted as critical habitat but that less developed areas in Harris County in sandy soil be considered. He further suggested some government-owned lands (Ellington Air Force Base, Hobby Airport, Clear Creek, Sims Bayou, Addicks Reservoir, Barker Reservoir, Texas state prison farm near Sugarland and Rosharon, and the 100-year flood plain areas of Oyster Creek and the Brazos River near Houston) be considered. He also recommended an area in Fort Bend County bounded by the Brazos River, Route 723 north of Rosenberg, Oyster Creek downstream past Sugarland, Dewalt to Juliff or the Brazoria County line be designated as critical habitat. He also stressed a critical habitat designation solely on biological grounds and that, although toads can't vote, we must protect such Endangered animals.

W. L. McClure (Houston, Tex.) recommended deletion of area D(1) and that the southern parts of areas D(2) and D(5) should also be deleted from any final rulemaking. Mr. McClure commented on development in Harris County and stated that government-owned areas, such as Ellington Air Force Base and Barker and Addicks Reservoir, should be preserved as a sanctuary for the Houston toad. He stated that land preserves and a captive breeding program are really the only ways to ensure the survival of the species in Harris County.

James Dixon (Texas A & M University) found the evaluation of habitat

in the proposal as adequate but recommended the deletion of the Sharpstown area. He also suggested including Ellington Air Force Base since the Houston toad and Attwater's prairie chicken are there. He recommended the purchase of the Burleson County area and highly recommended the other proposed sites, especially the Bastrop County site, be included in a final rulemaking.

The following individuals endorsed the proposal in its entirety, or with the deletion of the Sharpstown area. In addition, several individuals also requested that the Ellington Air Force Base be included in future considerations of critical habitat: Robert A. Thomas (Louisiana State University Medical Center), William A. Butler (Environmental Defense Fund), Eugene I. Majerowicz (Los Angeles, Calif.), D. Marrack (Bellaire, Tex.), J. A. Rochelle (Francis and Francis, Dallas, Tex.), J. W. Akers (Sierra Club, Houston Regional Group), Raymond H. McDavid (Outdoor Nature Club of Houston), Morton Rich (Houston, Tex.), W. F. Blair (University of Texas at Austin), and Stanley McBee (Houston, Tex.).

R. L. Lewis (Chief Engineer of Highway Design, State Department of Highways and Public Transportation) listed a series of roads in Bastrop, Burleson, and Harris Counties which would probably be affected by the proposed Critical Habitat determination.

Mr. Lewis stated that it is doubtful the areas proposed as Critical Habitat by the Service will lead to ensuring the survival or recovery of the Houston toad because:

1. Within Critical Habitats, it appears that only those proposed actions with Federal involvement are covered; private actions are not. Very little of the proposed Critical Habitat is under Federal control.

2. The Critical Habitats proposed for Harris County in some cases are already developed urban areas; in others, they fall directly in the path of current urban growth. Even if the proposed Critical Habitats are adopted, the enormous growth pressures for industrial, commercial, and residential development in the rapidly growing Houston metropolitan area will most likely result in the alteration of such areas by privately financed ventures.

3. One reason for diminished Houston toad population is loss of habitat—which Critical Habitat determination may or may not deter. Another probably more significant factor is interspecies hybridization and competition with the Gulf Coast toad (*Bufo valliceps*). This species apparently readily adjusts to the changing environment in the Houston area while the Houston toad does not. Accordingly, even if the proposed Critical Habitats could in some way preserve the status quo within such areas, the drainage and other developmental alterations taking place in the areas surrounding the Critical Habitats would not limit this more dominant species—nor its competition and hybridization with whatever Houston toad populations might possibly be present in the Critical Habitat areas.

Accordingly, Mr. Lewis suggested as an alternative to include Addick and Barker Flood Protection Reservoirs, Ellington Air Force Base, and Armand Bayou Park as areas which could be Critical Habitat. In view of the scarcity of the toad in Harris County, appropriate agencies should obtain specimens which could be established in those areas, according to Mr. Lewis.

L. Diane Schenke, representing Vinson and Elkins, Attorneys at Law, submitted three lengthy letters on behalf of clients of her firm. She objected to several of the areas in Harris County being included as Critical Habitat saying that: (1) The proposal is not biologically justified because of soil types; (2) the designation is arbitrary and capricious because the final report on a Houston toad study contracted by the Service had not been received at the time the proposal was published in the FEDERAL REGISTER; (3) the Houston toad has a tendency to hybridize in the areas of proposed Critical Habitat and that there are other more appropriate habitats available; and (4) the Service has not fulfilled the obligations of § 102(C) of the National environmental Policy Act. In addition, comments were made on the degree of development in some areas, as in Sharpstown, which she stated would preclude the presence of the toad in that area.

All Ms. Schenke's letters contained comments on the general life history of *Bufo houstonensis;* most of here statements were based on papers published in the early 1970's. She also doubted the validity of *B. houstonensis* as a species because it was separated from other species only on morphological grounds. Each of her main points were elaborated on, and she included appropriate maps with each of her letters.

W. A. Sweitzer (Johnson-Loggins, Inc.) commented on only one of the six proposed areas in Harris County—the area D-2 of the proposal. Mr. Sweitzer reviewed development in this area and enclosed a report by W. L. McClure, a consultant, which indicated for the most part that conditions do not support biological reasons to classify this particular area as Critical Habitat. Mr. Sweitzer concluded that the Service should not include this area in a final rulemaking without specific biological study.

David S. Wolff (Wolff, Morgan and Company) commented on the proposed area in northwestern Harris County. Mr. Wolff referred extensively to a 1975 report (Federal Aid Project No. W-103-R-5) which did not mention Houston toads in Harris County since 1967, and which stated that landowners had been contacted. Mr. Wolff mentioned that habitat modification is continuing to occur in the area in northwest Houston, and that there was little reason to suspect that *B. houstonensis* still exists in this area. Mr. Wolff questioned why private property should be designated Critical Habitat while 1,000 feet to the west, Addicks Reservoir, a 14,000 acre public property, should not be so designated. Mr. Wolff also stated that he had never been contacted by anyone about Houston toads.

Errol J. Donahue (Houston, Tex.) stated humans should not be displaced because of toads.

Colonel Luis F. Dominguez (Chief, Environmental Planning Division, U.S. Air Force) requested a threshold examination with regard to this species for areas on Ellington Air Force Base. Richard Broun (Office of Environmental quality, Department of Housing and Urban Development) commented that the Regional Office in Dallas had several recently approved or pending applications for funding assistance, and that the applicants have been informed of the Critical Habitat proposal. Each project would have to be reviewed in light of circumstances existing at that time. John R. Hill, Jr. (Corps of Engineers, U.S. Army) submitted information on the biology of the Houston toad and listed a series of projects which might be affected by a Critical Habitat designation and suggests specific methods be developed to insure the preservation of Critical Habitat.

Finally, the week of October 17-21, 1977, a review team consisting of Fish and Wildlife Service personnel, consultants to the Service, and a representative of the Texas Parks and Wildlife Department met in Houston and reviewed all areas proposed as Critical Habitat in Bastrop, Burleson, and Harris Counties.

CONCLUSION

Bastrop County. The Service believes this is the best locality presently known for the Houston toad. The only problem with the FEDERAL REGISTER proposal for this site was the boundary around the town of Bastrop. The proposal reads " * * * west and northwest along the north bank of the Colorado River to the city limits of Bastrop, and north through Bastrop along Texas State Highway 95 * * * ." This is hereby changed to " * * * west and northwest along the north bank of the Colorado River to the due southward extension of Texas State Highway 95, and north along that extension and Texas State Highway 95 * * *." The

demarcation line for soils in this area is a high ridge east of Bastrop. This new boundary eliminates unsuitable portions and utilizes firmer landmarks than city limits, which are subject to change.

Burleson County. The one mile radius circle around Woodrow Lake includes all known Houston toad localities in Burleson County, the soil type (sand) conforms to the weak burrowing habitats suggested for this species, and both temporary and permanent ponds are found throughout the proposed area. The Service feels that one mile is a reasonable distance for dispersal from the center of activity.

After a thorough review and consideration of all comments and recommendations received, the Director has decided to proceed with a final rulemaking to list those areas in Bastrop and Burleson Counties as Critical Habitat for the Houston toad, with slight modifications which will provide a clearer more stable boundary around the town of Bastrop.

The Director further has determined that proposed areas D-1 and D-2 of Harris County do not contain habitat nor records of Houston toads and should no longer be considered as Critical Habitat for the species.

Finally, the Director has determined that there is insufficient data at present on which to base a Critical Habitat designation for those remaining areas in Harris County. Therefore, these areas will not be acted on in this final rulemaking. However, should future studies indicate that these areas are critical to the survival of the Houston toad, then a final determination of Critical Habitat can be made at the appropriate time.

Effect of the Rulemaking

The effects of this determination are involved primarily with section 7 of the Act, which states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

An interpretation of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of April 22, 1975 (40 FR 17764-17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting critical habitat of a species would not conform with section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

Any Federal agency which feels its actions might affect the survival or the continued existence of this species should enter into consultation with the Director. Proposed provisions for interagency cooperation have been published in the January 26, 1977, Federal Register (42 FR 4868-4875) to assist Federal agencies in complying with section 7.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or obtained by mail. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service 202-343-7814.

Regulation Promulgation

Accordingly, 50 CFR 17.95(d) is amended by adding critical habitat of the Houston toad before that of the Florida Pine Barrens treefrog as follows:

§ 17.95 Critical Habitat—Fish and Wildlife.

* * * * *

(d) Amphibians.

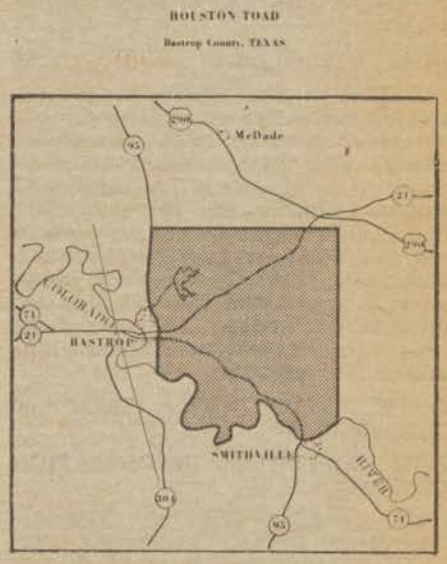
* * * * *

HOUSTON TOAD

(Bufo houstonensis)

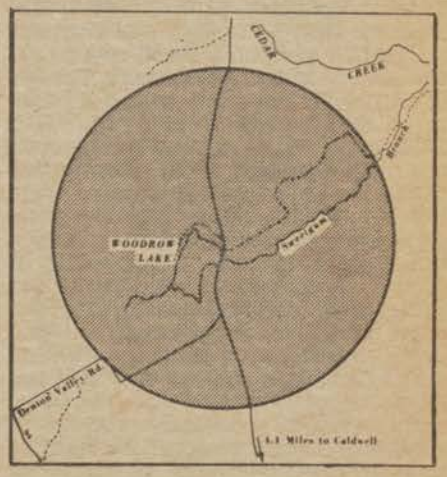
Texas—Areas of land, water, and airspace as follows:

(1) *Bastrop County.* From the junction of a line corresponding to 30°12'00" N. and Texas State Highway 95 east along a line corresponding to 30°12'00" N. to where it intersects a line corresponding to 97°7'30" W. and south along a line corresponding to 97°7'30" W. to where it intersects the Colorado River, west and northwest along the north bank of the Colorado River to the due southward extension of Texas State Highway 95, and north along that extension and Texas State Highway 95 to where it intersects a line corresponding to 30°12'00" N.



Critical Habitat for the Houston toad.

(2) *Burleson County.* A circular area with a 1-mile radius, the center being the north entrance to Lake Woodrow from Texas FM 2000.



Critical Habitat for the Houston toad.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 18, 1978.

KEITH M. SCHREINER,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-2490 Filed 1-30-78; 8:45 am]

[4310-55]

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the Eastern Indigo Snake as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the eastern indigo snake (*Drymarchon corais couperi*) to be a Threatened species. This action is being taken because of the threats of habitat modification, collection for the pet trade, and gassing while in gopher tortoise burrows, and provides Federal protectfor the species. The eastern indigo snake is known only from Florida and Georgia. Historically, the species has been recorded in Alabama, Mississippi, and South Carolina.

DATE: This rule becomes effective on March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 1, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 38921-38924) advising that sufficient evidence was on file to support a determination that the eastern indigo snake was a Threatened species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq. That proposal summarized the factors thought to be contributing to the likelihood that this snake could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to the Governors of the States of Florida, Georgia, Alabama, Mississippi, and South Carolina on August 5, 1977, notifying them of the proposed rulemaking for the eastern indigo snake. On this same date, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties.

Official comments were received from Governor Reubin O'D. Askew of Florida, Governor George Wallace of Alabama, and Governor Cliff Finch of Mississippi.

Governor Askew referred the letter concerning the proposed rulemaking to Colonel Robert Brantly, Director of the Florida Game and Fresh Water Fish Commission, for appropriate response. Lt. Col. Brantley Goodson, Director of the Division of Law Enforcement of the Florida Game and Fresh Water Fish Commission, replied. Lt. Col. Goodson detailed the problems encountered by the State in enforcing their law concerning protection of the eastern indigo snake. A rather sizable black market is continuing to deplete populations in the State for export to commercial markets, especially in the North. Not only are individuals involved, but large scale reptile wholesaling companies as well. According to Lt. Col. Goodson, these individuals are aware that the indigo is protected in Florida and will admit that Florida is the source of their supply. Lt. Col. Goodson noted that Florida is continuing to prosecute violations of their protected species laws and has cooperated with Fish and Wildlife Service agents in efforts to halt illegal trade in reptiles. He stressed the need for continued cooperation and solicited the Service's support in dealing with the indigo snake trade situation.

Governor Wallace indicated that while Alabama no longer supports known populations of eastern indigo snakes, the Alabama Cooperative Wildlife Research Unit is conducting research on this species. Some snakes may be released in Alabama in good habitat where protection can be provided, according to Governor Wallace. He supported a Threatened status.

Governor Finch noted that the eastern indigo snake is officially protected in the State of Mississippi and enclosed a copy of the regulations regarding such protection with his comments. Governor Finch stated that while no confirmations of the indigo snake have been made since the 1950's, a reported sighting occurred in Stone County in 1977 and that indigo snakes may still be present in South Mississippi in longleaf pine areas where gopher tortoises occur. The Governor supported the listing of this species as Threatened.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

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

In the August 1, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 38921-38924) and associated August 1, 1977, Press Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period August 1, 1977, to November 29, 1977, were considered.

In addition to the comments received from the Governors of Florida, Alabama, and Mississippi, comments were received from 26 individuals and representatives of various organizations.

Mr. Jack A. Crockford, Director of the Georgia Department of Natural Resources, supported the proposed listing and included a copy of the recommendation to add this species to the Georgia protected species list.

Howard Lawler (Atlanta Zoological Park) submitted two letters in support of the proposed listing. The first (September 28, 1977) supported the listing and added additional information on the presence of pesticides in indigo fat samples from a paper in press in Herpetological Review. In the second (October 24, 1977), Dr. Lawler expressed concern because some individuals may feel the indigo snake is not Threatened because certain populations are doing well. Dr. Lawler emphasized that continued and uncontrolled "noncommercial" collecting without regulation would endanger populations in most parts of the range. He restated his support for the proposal. R. H. Hunt (Curator of Reptiles, Atlanta Zoological Park) also supported the proposal and mentioned habitat modification, pesticides, and commercial trade as being involved in the species' decline.

Bob Truett (Birmingham Zoo) supported the proposed rulemaking, again singling out overcollection for pets as a main cause of the decline in indigos. However, Mr. Truett feels that the Texas indigo snake should also be included as a Threatened species since protection for only eastern indigo snakes may cause harm to the other subspecies. Mr. Truett also commented extensively on the detrimental influences of "Rattlesnake Roundups" on native fauna, including indigo snakes, in parts of the Southeast. Mr. Truett continues that no protection for the indigo snake will be effective until it controls or eliminates the Rattlesnake Roundups throughout the range of

the snake. Finally, Mr. Truett indicates that off-road vehicles may become a serious problem to the indigo snake, as their use is increasing in many areas. Robert Mount (Auburn University) also commented on Rattlesnake Roundups and their detrimental impact on the eastern indigo snake and supported the proposed Threatened status.

Rattlesnake Roundups generally employ gasoline dumped down the burrows of gopher tortoises to cause the snakes to vacate and thus be captured. However, many snakes, including indigo snakes, are killed by this practice. Jane Risk (Animal Protection Institute) and Mark Stahle (New Cumberland, Pa.) commented on this practice and supported the proposed rulemaking. Mr. Stahle and Ms. Risk also commented on overcollection as a threat to the species.

Richard M. Blaney (West Virgina State College) supported the proposal, citing increases in price for this species from $17 in 1965 to over $200 presently. He further stated that regulations should prohibit the sale of all native fauna except by licensed dealers to permitted institutions or individuals; private possession or collection should not be restricted.

The following individuals supported the proposal for the reasons listed in the proposed rulemaking: Bette Bechtel (Valdosta State College), Howard Campbell (National Fish and Wildlife Laboratory), Steven Christman (National Fish and Wildlife Laboratory), James A. Timmerman (South Carolina Wildlife and Marine Resources Department), Sherrard Coleman (Environmental Defense Fund), Donna Ripley (Whittier, California), W. Troy Allen (Massachusetts Herpetological Society), Audrey Jackson (Tarpon Springs, Florida), W. A. Black (Cahaba Heights, Alabama), and Delano Deen (Hurricane Creek Protective Society). No new data were supplied.

Joseph W. Jacob, Jr. (Mississippi Natural Heritage Program) provided updated information on the distribution of the eastern indigo snake in Mississippi. Daniel Tobin (Associate Director, National Park Service) supported the designation as threatened on behalf of the National Park Service. He indicated that if finalized, the Park Service would propose to study areas in three Parks in its jurisdiction for suitability for designation as Critical Habitat. He further suggested that consideration be given to acquiring lands adjacent to De Soto National Memorial that might qualify as Critical Habitat. Mr. Tobin also expressed interest in developing a cooperative management agreement under which staff of De Soto National Memorial would provide protection, interpretation, or other activities required for proper management of the land acquired as Critical Habitat.

Daniel K. Tabberer (NSTL Station, Mississippi) indicated that he had talked with E. D. Keiser (University of Mississippi) who felt that the species should not be listed because of lack of controls; Dr. Keiser apparently feels the proposal is a case of overreaction to a problem, and that habitat preservation is the best way to insure the preservation of individual species. Mr. Tabberer recommended no listing for Arkansas, Louisiana, and Mississippi. Thomas C. Nelson (Deputy Chief, Forest Service) replied that while the Forest Service had no substantive information, informal contacts with herpetologists familiar with the species supports the hypothesis of widespread decline.

Louis Porras (The Shed, Miami, Florida) agreed that the indigo snake needed some form of protection, but doubted whether listing it as Threatened reflected its biological status, at least in south Florida, and that such a listing would not prevent continued habitat destruction. He suggested that a new list be created to protect species from commercial exploitation and that the indigo snake be placed in this category. Mr. Porras also provided information on the habits and habitats of the eastern indigo snake in south Florida.

Dick Flood (Okefenokee Swamp Park) expressed his desire to see the indigo snake protected, but felt that information the Fish and Wildlife Service has received may be false, biased, and incomplete. He felt that more studies are necessary before a decision is made on the species' status so that it may be properly protected.

Sterling R. Williamson (Norfolk, Virginia) indicated that, in his opinion, placing this species on the List of Endangered and Threatened Wildlife and Plants would not offer the needed protection that this species may deserve. He feels that unless adequate measures are taken for public education and prevention of habitat destruction, adding it to another list would not be of any benefit.

J. D. Parrott (National Association for Sound Wildlife Programs) did not feel the species is Threatened because he feels that substitute habitat is available to compensate for past habitat destruction. This substitute habitat includes areas with Australian pine trees and orange groves. Dr. Parrott noted that indigo populations are declining in Georgia where no substitute habitat is available and that both George and Florida protect this species. He stated that Federal protection will not insure protection since the species is already adequately protected by the States and that, in his opinion, the Lacy Act prohibitions are sufficient to regulate illegal traffic in these snakes. He also felt that such a listing would hamper research on this species. On behalf of the Association, Dr. Parrott recommended the prohibition of sales of products produced from snakes collected in rattlesnake roundups. This he felt would help prevent the gassing of gopher tortoise burrows.

CONCLUSION

While the large majority of individuals who responded to the proposed rulemaking were in favor of the status proposed and agreed with those factors thought to be contributing to the decline of the species, a few individuals expressed doubts that a listing would protect the species. A Threatened status would protect the species from commercial exploitation by allowing protection throughout the historical range, not just in Georgia and Florida. As such, there would not be any doubt about whether existing laws protected a particular specimen in question; no longer could it be claimed that a specimen came from outside Georgia and Florida, a problem encountered with enforcement of the Lacy Act.

When considered throughout its range, the eastern indigo snake is Threatened. However, this does not imply that every local population within a geographical area is Threatened. As such, the Service recognizes that some populations of indigo snakes in South Florida are doing well. However, it would be best to consider this species as an entity because of continuous distribution. At this time, there is no evidence that Texas indigo snakes are either Threatened or Endangered. Should the Service receive such information in the future, the Service will act accordingly.

While it is true that no action by the Fish and Wildlife Service can forestall habitat destruction in all areas of the range, even if Critical Habitat was determined, the final action will make other prohibitions available to insure the survival of this species. Management programs can now be formulated and money from the Land and Water Conservation Fund would be available for habitat acquisition. By listing this species, the prohibitions of the Endangered Species Act of 1973 would be brought into force; this action is not simply adding this species to another "protected" list.

Before Critical Habitat can be determined, precise limits of the distribution of the main populations will have to be assembled. As such, more information will have to be obtained. However, there is more than enough reliable data to make an assessment as to the status of this species. The Service does not feel this information is false or biased.

Finally, the Service does not have the power to prohibit Rattlesnake Roundups in areas where the eastern

indigo snake occurs. Nor would prohibition of products of these roundups insure that they would no longer be conducted. The Service does not condone the wanton destruction of many forms of wildlife as a result of the gassing of dens and burrows, but does feel that this is a practice best left to the States to regulate.

After a thorough review and consideration of all the information available, the Director has determined that the eastern indigo snake is threatened with becoming Endangered throughout all or a significant portion of its range due to one or more of the factors described in section 4(a) of the Act. This review amplifies and substantiates the description of those factors and are described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The eastern indigo snake inhabits a region that is experiencing rapid development resulting in considerable loss of available habitat. A favorable characteristic of its habitat includes well drained soils which are ideal for human settlement, resulting in a serious decline in the populations of eastern indigo snakes in many areas.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—The eastern indigo snake is in great demand by the pet trade with prime specimens selling for as much as $200–$250. The extremely docile nature of the snake and its large size make it highly desirable as a pet and, therefore, avidly sought by dealers. Commercial trade is probably the main cause for the decline of this species throughout its range.

3. *Disease or predation.*—Unknown.

4. *The inadequacy of existing regulatory mechanisms.*—The eastern indigo snake is strictly protected in Georgia, Florida, and Mississippi. However, these States cannot effectively control the trade in snakes once they leave the State. If a species is taken in violation of a State's law and moved illegally across a State line, such action becomes a violaton of the Lacey Act. However, it has been a common practice to claim that the indigos in trade came from Alabama or South Carolina, where the snake has not been taken by experienced herpetologists in many years. This claim is virtually impossible to completely refute. Therefore, trade in illegally taken indigo snakes can continue in spite of strong State laws. There are no laws to protect the eastern indigo snake in Alabama or South Carolina.

5. *Other natural or manmade factors affecting its continued existence.*—In many areas in the Southeast, burrows of the gopher tortoise are gassed in order to drive out rattlesnakes which use the tortoise burrows. Indigo snakes also use gopher tortoise burrows and recent research has indicated that eastern indigo snakes are harmed or killed by this practice.

Effect of the Rulemaking

Section 7 of the Act provides:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to section 4 of the Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such Endangered species and Threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of section 7 of the Act. In addition, provisions for Interagency Cooperation were published on January 4, 1978 (43 FR 869–876), codified at 50 CFR 402.

Although no Critical Habitat has yet been determined for this species, the other provisions of section 7 are applicable.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Threatened species. The regulations referred to above, which pertain to Endangered and Treatened species, are found at §§ 17.21 and 17.31 of Title 50 and are summarized below.

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

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412), codified in 50 CFR Part 17, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Effect Internationally

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

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the eastern indigo snake. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969.

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

Regulation Promulgation

Accordingly, § 17.11 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended by adding the eastern indigo snake to the list, alphabetically under "Reptiles," as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptiles: Snake, eastern indigo.	Drymarchon corais couperi.	NA	U.S.A. (Florida, Georgia, Mississippi, South Carolina, Alabama).	Entire	T	32	NA.

Note.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 24, 1978.

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

[FR Doc. 78-2586 Filed 1-30-78; 8:45 am]

[3510-12]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 652—SURF CLAM AND OCEAN QUAHOG FISHERIES

Notice and Reduction of Fishing Time

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency amendment to regulations.

SUMMARY: This amendment contains notice that 50 percent of the quota of surf clams has been taken and consequently, beginning January 30, 1978, all vessels engagin the surf clam fishery in the fishery conservation zone shall be restricted to fishing 2 days per week until February 15, 1978.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Emergency regulations were published on November 22, 1977 (42 FR 59948) and republished on December 30, 1977 (42 FR 6518) implementing the surf clam and ocean quahog fisheries management plan. Section 652.6(b) of these regulations provide that when the Regional Director determines that 50 percent of the allowable quota of surf clams has been taken, a notice to that effect shall be published in the FEDERAL REGISTER together with a determination of the appropriate action which is necessary under the circumstances. Accordingly, notice is hereby given that available information indicates that 50 percent (87,500 bushels) of the surf clam quota of 175,000 bushels established by § 652.6(a) of the regulations implementing that plan were taken by the end of the fishing day on January 19, 1978. It is anticipated that the quota of 175,000 bushels established for surf clams landed from the fishery conservation zone (FCZ) during the emergency regulation period (January 1 to February 14, 1978) will be exceeded if the present level of effort continues for the remainder of the emergency period. To reduce the likelihood that the quota will be exceeded during this period, vessels harvesting surf clams from the fishery conservation zone will be permitted to fish for surf clams only two days per week beginning 12:01 a.m. January 30, 1978. The permitted fishing days for surf clams for each vessel will be those two designated fishing days on which the vessel elected to fish for surf clams during December, 1977, or which shows on the vessel permit if the vessel did not fish during December, 1977.

The conservation needs of this resource and the fact that the Secretary determines that an emergency exists, dictate that notice and public procedure on this amendment is impractical, unnecessary, and contrary to the public interest.

Signed at Washington, D.C., on this 25th day of January 1978 on behalf of the Regional Director.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Section 652.8(a) is hereby revised to read as follows:

§ 652.8 Effort restrictions.

* * * * *

(a) *Surf Clams.* Fishing for surf clams shall be permitted during four days per week, from 12:01 a.m. (0001 hours) Monday to 12 midnight (2400 hours) Thursday, except as adjusted under § 652.6(b). However, no fishing vessel shall engage in fishing for surf clams on more than two days in any week. For the period from January 30, 1978, through February 14, 1978, inclusive, the authorized fishing days for surf clams for each vessel shall be the two days (among Monday, Tuesday, Wednesday, Thursday) on which the owner or operator of the vessel elected to fish pursuant to the earlier version of this § 652.8(a) which appeared at 42 FR 59948 on Tuesday, November 22, 1977. Fishing for any part of a day will be counted as one day of fishing. In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds.

* * * * *

[FR Doc. 78-2729 Filed 1-30-78; 8:45 am]

[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

PART 250—DONATION OF FOOD FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Correction

AGENCY: Food and Nutrition Service.

ACTION: Correction of final rule.

SUMMARY: This document corrects a final rule which appeared at 42 FR 59880-1 on November 22, 1977.

EFFECTIVE DATE: amendment published on November 22, 1977, was effective on October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Juan del Castillo, director, Food Distribution Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-8371.

On page 59881, paragraph (f)(3)(iv) of § 250.10 is corrected to read as follows:

§ 250.10 Miscellaneous provisions.

* * * * *

(f) *Cash in lieu of commodities for nutrition programs for the elderly.* * * *

(3) * * *

(iv) permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records at any reasonable time.

* * * * *

Dated: January 26, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-2697 Filed 1-30-78; 8:45 am]

[3410-16]

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

PART 622—WATERSHED PROJECTS DEAUTHORIZATION OF PUB. L. 83-566 WATERSHED PROJECTS

General Guidelines

AGENCY: U.S. Department of Agriculture, Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: This section will provide a way to deauthorize and delete watershed projects in which no construction has started within eight (8) years after

approval for operations and other watershrojects selected for deauthorization by the State Conservationist where it is unlikely that planned measures will be installed. The deauthorization of funding will remove the projects from consideration for funds, staff assistance, and other resource demands. The released resources will be available for concentration on high priority projects which can be installed in a more efficient way.

DATES: Effective date: February 7, 1978.

FOR FURTHER INFORMATION CONTACT:

J. W. Mitchell, Director, Watersheds Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, 202-447-3527.

SUPPLEMENTARY INFORMATION: On Tuesday, December 6, 1977, the Soil Conservation Service published proposed rulemaking permitting administrative actions to deauthorize watershed projects.

DISCUSSION OF MAJOR COMMENTS: There was only one comment received. The respondent was concerned about the deauthorization of watershed projects included in an overall plan with downstream works by the Corps of Engineers where the timing of construction for Corps of Engineers projects had not kept up with those of the watershed projects. The respondent would be satisfied if the proposal would permit the delaying of watershed construction starts beyond the eight (8) years for coordination with Corps of Engineers projects. Section 622.55(a) states in part, "If, after agreement with sponsors, the State Conservationist determines it unlikely that planned measures will be installed, he will initiate project deauthorization action, as provided in paragraph (b) of this section. State Conservationists may elect to begin deauthorization sooner where it is unlikely that planned measures will be installed and sponsors concur in the deauthorization." The determination to deauthorize is keyed to a decision that planned measures will not be installed. The delaying of a construction start beyond the eight (8) years is permitted if there are adequate assurances that the planned measure will be installed. Therefore, section 622.55 is published as final rules as follows:

Section 622.55—*Deauthorization of projects*

(a) By February 1, each calendar year, the State Conservationist shall examine watershed projects for which he is responsible in which no structural measures have been installed for eight (8) years after approval for installation of works of improvement (See section 622.40). If, after agreement with sponsors, the State Conservationist determines it unlikely that planned measures will be installed, he will initiate project deauthorization action, as provided in subsection (b) of this section. State Conservationists may elect to begin deauthorization sooner where it is unlikely that planned measures will be installed and sponsors concur in the deauthorization.

(b) The State Conservationist will notify the Administrator of the Soil Conservation Service and concerned State and other agencies, which had been notified that the project was approved for installation of works of improvements, of the proposed deauthorization. The environmental consequences of deauthorization will be documented by an appropriate Environmental Assessment and other steps, as required by SCS procedure (7 CFR 650). If authorization for funding by the Administrator of the Soil Conservation Service is subject to approval by resolution by a committee of Congress, the appropriate committee will be given written notice of the proposed deauthorization sixty (60) days before final deauthorization action is taken. Projects approved administratively will be deauthorized by State Conservationists after notification of the Administrator of the Soil Conservation Service. Notice of all project deauthorization will be published in the FEDERAL REGISTER by the State Conservationist. The State Conservationist will notify sponsors and concerned Federal, State, and local agencies of final action. Deauthorization proceedings may be canceled by the State Conservationist based upon public, Congressional, or sponsor action at any time before the notice is published.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. (1001-1008).)

Dated: January 24, 1978.

R. M. DAVIS,
Administrator, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-2599 Filed 1-30-78; 8:45 am]

[3410-16]

SUBCHAPTER F—SUPPORT ACTIVITIES

PART 657—PRIME AND UNIQUE FARMLANDS

Subpart A—Important Farmlands Inventory

AGENCY: U.S. Department of Agriculture, Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: This rule prescribes general guidelines for a national program of inventorying prime and unique farmland, as well as other farmlands of statewide or local importance. It incl specific criteria for the definition of prime farmland. This rule is necessary because the Nation needs to know the extent and location of the best land for producing food, feed, fiber, forage, and oilseed crops.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

R. I. Dideriksen, Director, Inventory and Monitoring Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone 202-447-5424.

SUPPLEMENTARY INFORMATION: On August 23, 1977, the Soil Conservation Service published in the FEDERAL REGISTER (42 FR 42359) proposed rules for the conduct of its Important Farmlands Inventory. During the 30-day commenting period, 16 letters were received from 4 Federal agencies, 5 State and Commonwealth agencies, 6 private firms associated with coal production, and 1 State Chamber of Commerce.

All written comments were given consideration in developing the final rule.

The full text of all comments received is on file and available for public inspection in: Room 5214, South Agriculture Building, Inventory and Monitoring Division, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013.

DISCUSSION OF MAJOR COMMENTS

DEFINITION OF PRIME FARMLAND

One agency asked that SCS change the prime farmland definition to include land that would qualify as prime farmland after irrigation is provided. SCS has determined that this would change the intent of the inventory. The prime farmland definition includes areas that currently are irrigated or have proper drainage to provide the necessary water regime to meet the criteria. The inventory is to be kept current, as stated in § 657.2.

A Federal agency asked that SCS add the following words to § 657.5(a)(2)(vi) "or are flooded only under controlled conditions for irrigated farming." SCS has determined that the criteria for irrigation are adequately covered in § 657.5(a)(2)(i). Irrigation, regardless of the type used, is not commonly perceived as flooding and the statements should be clearly understood.

Another commenter proposed that the entire frigid temperature regime include some soils too cold for normal farming practices. SCS recognizes this problem, but is aware also that there are soils within the frigid temperature

regime that are high yielding and need to be included in the prime farmland definition. Many of the soils that are too cold for normal farming practices also have other features that will eliminate them from the prime farmland classification. Based on data available at this time the entire frigid temperature regime is included, provided all the other criteria are satisfied.

A private industry commenter suggests that an additional criterion be added to require that prime farmland soils have an A horizon with an accumulation of humified organic matter of not less than 0.8 percent associated with the mineral fraction. SCS agrees that organic matter content is a very important criterion for explaining the behavior of soils. However, SCS does not agree that an organic matter criterion is needed in the rules. Adding such a requirement would disqualify thousands of acres of highly productive irrigated soils that have low organic matter content. These are among the most productive soils of the Nation when treated with acceptable management techniques.

Another commenter suggests that the permeability rate be changed from 0.06 inch to 0.2 inch per hour in all soil horizons. SCS does not agree. Such a change would delete millions of acres of highly productive soils in the Mississippi Delta and other areas of the Western and Southeastern United States. Such soils require careful management techniques. However, these soils are some of the Nation's most productive lands.

A private company suggests that the criteria in § 657.5(a)(2)(i) be expanded to include the concept of cultivated crops adapted to the region and to define both cultivated crops and root zones. SCS agrees and has added the definitions as requested.

Several people expressed concern that the proposed definition of prime farmland was too rigid for individual States that might want to modify certain parameters to adequately reflect prime farmland. SCS agrees and has changed § 657.4(a)(2) to allow flexibility in application of the permeability criterion or permit the restricting of other specific criteria to assure that the most accurate identification of prime farmlands is made for each State. The national criteria will not change, but this flexibility permits State Conservationists, in cooperation with others, to identify soil mapping units that include a portion of both prime and nonprime farmlands or that have chemical and physical properties that cannot be determined accurately enough to clearly place the soil in or out of the criteria.

CONCERN FOR WETLANDS

A Federal agency was concerned that the definition of prime farmlands may include wetlands. SCS does not intend that the definition of prime farmland include areas that currently qualify as wetlands. They are eliminated from the criteria on the basis of § 657.5(a)(2)(iv).

CATEGORIES OF THE INVENTORY

Several private industry commenters objected to the inclusion of unique farmlands, farmlands of statewide importance, and farmlands of local importance in the inventory, arguing that they extend the intent of Congress as expressed in Pub. L. 95-87 which speaks only to the term prime farmland as it relates to the surface mining of coal. They argue the proposed definition does not conform to the definition set forth on page S8101 of the Congressional Record for May 20, 1977. SCS has determined that the specific definition for prime farmlands contained in § 657.5(a) is exactly the same as that which appeared on page S8101 of the Congressional Record for May 20, 1977, in all technical aspects. Minor changes were made from the wording in order to remove procedural guidelines and other sentences that did not relate specifically to scientific criteria for prime farmland. SCS rules (7 CFR Part 657), are not intended to be utilized only for the purposes of implementing Pub. L. 95-87. It establishes an important farmland inventory that covers four categories of important farmlands. Only one category, prime farmland, has applicability to the implementation of Pub. L. 95-87.

INVENTORY MAP SCALE

A Federal agency encourages the overall use of 1:100,000-scale base maps to provide uniformity among county maps and to assist in making comparisons among the national farmlands inventory and the national wetlands inventory. SCS concurs with the goal of keeping all maps to a consistent map accuracy and utilizing common scales wherever possible. However, in some counties with complex patterns, larger maps are needed. In those areas or where other demands dictate, State Conservationists may utilize base maps of other scales.

INVENTORY PROCEDURES

A State agency suggests that provisions should be made for addition or deletion of lands whose status has changed in regard to the prime farmland criteria. SCS will keep these inventories current and acreage will be deleted when it fails to meet the criteria for prime farmland.

A public service agency asked that SCS not proceed with the identification of important farmland until their State had the opportunity to test and modify definitions and ultimately pass State legislation to define the agricultural lands of concern in the State. SCS has determined that the system as proposed allows States to develop statewide definitions either by legislation or other policy. Definitions for unique farmland, farmland of statewide importance, and additional farmland of local importance are intentionally left broad enough to be defined appropriately at each State level. The definition of prime farmland must be uniformly applied in all States to provide a basis for national policy actions.

In accordance with these determinations, 7 CFR Part 657 is published as final rules.

(Catalog of Federal Domestic Assistance programs numbered 10.900 (Great Plains), 10.901 (Resource Conservation and Development), 10.902 (Soil and Water Conservation), 10.904 (Watershed Protection and Flood Prevention), and 10.905 (Plant Materials).)

Dated: January 23, 1978.

R. M. DAVIS,
Administrator,
Soil Conservation Service.

Subpart A—Important Farmlands Inventory

Sec.
657.1 Purpose.
657.2 Policy.
657.3 Applicability.
657.4 SCS Responsibilities.
657.5 Identification of important farmlands.

AUTHORITY: 16 U.S.C. 590a-f, q; 7 CFR 2.62; Pub. L. 95-87; 42 U.S.C. 4321 et seq.

Subpart A—Important Farmlands Inventory

§ 657.1 Purpose.

SCS is concerned about any action that tends to impair the productive capacity of American agriculture. The Nation needs to know the extent and location of the best land for producing food, feed, fiber, forage, and oilseed crops. In addition to prime and unique farmlands, farmlands that are of statewide and local importance for producing these crops also need to be identified.

§ 657.2 Policy.

It is SCS policy to make and keep current an inventory of the prime farmland and unique farmland of the Nation. This inventory is to be carried out in cooperation with other interested agencies at the national, State, and local levels of government. The objective of the inventory is to identify the extent and location of important rural lands needed to produce food, feed, fiber, forage, and oilseed crops.

§ 657.3 Applicability.

Inventories made under this memorandum do not constitute a designation of any land area to a specific land use. Such designations are the responsibility of appropriate local and State officials.

§ 657.4 SCS Responsibilities.

(a) *State Conservationist.* Each SCS State Conservationist is to:

(1) Provide leadership for inventories of important farmlands for the State, county, or other subdivision of the State. Each is to work with appropriate agencies of State government and others to establish priorities for making these inventories.

(2) Identify the soil mapping units within the State that qualify as prime. In doing this, State Conservationists, in consultation with the cooperators of the National Cooperative Soil Survey, have the flexibility to make local deviation from the permeability criterion or to be more restrictive for other specific criteria in order to assure the most accurate identification of prime farmlands for a State. Each is to invite representatives of the Governor's office, agencies of the State government, and others to identify farmlands of statewide importance and unique farmlands that are to be inventoried within the framework of this memorandum.

(3) Prepare a statewide list of:

(i) Soil mapping units that meet the criteria for prime farmland;

(ii) Soil mapping units that are farmlands of statewide importance if the criteria used were based on soil information; and

(iii) Specific high-value food and fiber crops that are grown and, when combined with other favorable factors, qualify lands to meet the criteria for unique farmlands. Copies are to be furnished to SCS Field Offices and to SCS Technical Service Centers (TSC's). (See 7 CFR 600.3, 600.6.)

(4) Coordinate soil mapping units that qualify as prime farmlands with adjacent States, including the States responsible for the soil series. Since farmlands of statewide importance and unique farmlands are designated by others at the State level, the soil mapping units and areas identified need not be coordinated among States.

(5) Instruct SCS District Conservationists to arrange local review of lands identified as prime, unique, and additional farmlands of statewide importance by Conservation Districts and representatives of local agencies. This review is to determine if additional farmland should be identified to meet local decisionmaking needs.

(6) Make and publish each important farmland inventory on a base map of national map accuracy at an intermediate scale of 1:50,000 or 1:100,000. State Conservationists who need base maps of other scales are to submit their requests with justification to the Administrator for consideration.

(b) *Technical Service Centers.* Field representatives are to provide requested technical assistance to State Conservationists in inventorying prime and unique farmlands (see 7 CFR 600.2). This includes reviewing statewide lists of soil mapping units that meet the criteria for prime farmlands and resolving coordination problems that may occur among States for specific soil series or soil mapping units.

(c) *National Office.* The Assistant Administrator for Field Services (see 7 CFR 600.2) is to provide national leadership in preparing guidelines for inventorying prime farmlands and for national statistics and reports of prime farmlands.

§ 657.5 Identification of important farmlands.

(a) *Prime farmlands*—(1) *General.* Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding. Examples of soils that qualify as prime farmland are Palouse silt loam, 0 to 7 percent slopes; Brookston silty clay loam, drained; and Tama silty clay loam, 0 to 5 percent slopes.

(2) *Specific criteria.* Prime farmlands meet all the following criteria: Terms used in this section are defined in USDA publications: "Soil Taxonomy, Agriculture Handbook 436"; "Soil Survey Manual, Agriculture Handbook 18"; "Rainfall-erosion Losses From Cropland, Agriculture Handbook 282"; "Wind Erosion Forces in the United States and Their Use in Predicting Soil Loss, Agriculture Handbook 346"; and "Saline and Alkali Soils, Agriculture Handbook 60."

(i) The soils have:

(A) Aquic, udic, ustic, or xeric moisture regimes and sufficient available water capacity within a depth of 40 inches (1 meter), or in the root zone (root zone is the part of the soil that is penetrated or can be penetrated by plant roots) if the root zone is less than 40 inches deep, to produce the commonly grown cultivated crops (cultivated crops include, but are not limited to, grain, forage, fiber, oilseed, sugar beets, sugarcane, vegetables, tobacco, orchard, vineyard, and bush fruit crops) adapted to the region in 7 or more years out of 10; or

(B) Xeric or ustic moisture regimes in which the available water capacity is limited, but the area has a developed irrigation water supply that is dependable (a dependable water supply is one in which enough water is available for irrigation in 8 out of 10 years for the crops commonly grown) and of adequate quality; or,

(C) Aridic or torric moisture regimes and the area has a developed irrigation water supply that is dependable and of adequate quality; and,

(ii) The soils have a temperature regime that is frigid, mesic, thermic, or hyperthermic (pergelic and cryic regimes are excluded). These are soils that, at a depth of 20 inches (50 cm), have a mean annual temperature higher than 32° F (0° C). In addition, the mean summer temperature at this depth in soils with an O horizon is higher than 47° F (8° C); in soils that have no O horizon, the mean summer temperature is higher than 59° F (15° C); and,

(iii) The soils have a pH between 4.5 and 8.4 in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep; and,

(iv) The soils either have no water table or have a water table that is maintained at a sufficient depth during the cropping season to allow cultivated crops common to the area to be grown; and,

(v) The soils can be managed so that, in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep, during part of each year the conductivity of the saturation extract is less than 4 mmhos/cm and the exchangable sodium percentage (ESP) is less than 15; and,

(vi) The soils are not flooded frequently during the growing season (less often than once in 2 years); and,

(vii) The product of K (erodibility factor) x percent slope is less than 2.0, and the product of I (soils erodibility) x C (climatic factor) does not exceed 60; and

(viii) The soils have a permeability rate of at least 0.06 inch (0.15 cm) per hour in the upper 20 inches (50 cm) and the mean annual soil temperature at a depth of 20 inches (50 cm) is less than 59° F (15° C); the permeability rate is not a limiting factor if the mean annual soil temperature is 59° F (15° C) or higher; and,

(ix) Less than 10 percent of the surface layer (upper 6 inches) in these soils consists of rock fragments coarser than 3 inches (7.6 cm).

(b) *Unique farmland*—(1) *General.* Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop when treated and managed according to acceptable farming methods. Examples of such crops are citrus, tree nuts, olives, cranberries, fruit, and vegetables.

(2) *Specific Characteristics of unique farmland.* (i) Is used for a specific high-value food or fiber crop; (ii) Has a moisture supply that is adequate for the specific crop; the supply is from stored moisture, precipitation, or a developed-irrigation system; (iii) Combines favorable factors of soil quality, growing season, temperature, humidity, air drainage, elevation, aspect, or other conditions, such as nearness to market, that favor the growth of a specific food or fiber crop.

(c) *Additional farmland of statewide importance.* This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some States, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law.

(d) *Additional farmland of local importance.* In some local areas there is concern for certain additional farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned. In places, additional farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

[FR Doc. 78-2573 Filed 1-30-78; 8:45 am]

[3410-02]

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

[Orange and Grapefruit Reg. 29, Amdt. 1]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN TEXAS

Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action lowers the minimum size requirement to 3 5/16 inches for U.S. No. 1 grade Texas grapefruit that may be shipped te fresh market for the balance of the 1977-78 season. Such action is needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: February 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Texas Valley Citrus Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of grapefruit, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on January 23, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended that the minimum size requirement be lowered to 3 5/16 inches (size 112's) for U.S. No. 1 grade grapefruit. Currently, such grapefruit are required to be at least 3 9/16 inches in diameter and at least U.S. No. 2 grade. The committee reports that it anticipates a good market demand for high quality 112 size grapefruit; that the grapefruit has not grown as much as anticipated earlier and as a result a large percentage of the remaining fruit on the trees consists of smaller sizes; and prices for grapefruit for processing are very low at this time and the processed products market is a poor alternative for small sized fruit.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until March 2, 1978 (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Paragraph (a)(4) in § 906.360 Orange and Grapefruit Regulation 29 (42 FR 57299), is hereby amended to read:

§ 906.360 Orange and Grapefruit Regulation 29.

Order. (a) * * *

* * * * *

(4) Such grapefruit are at least pack size 96, as such size is specified in § 51.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3 9/16 inches: *Provided,* That during the period February 1, 1978, through November 5, 1978, any handler may handle grapefruit smaller than pack size 96, provided such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, as such size is specified in the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3 5/16 inches.

* * * * *

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

Dated: January 26, 1978.

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

[FR Doc. 78-2730 Filed 1-30-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

Subchapter C—Export Programs

[GSM-101]

PART 1487—NON-COMMERCIAL RISK ASSURANCE PROGRAM

Subpart—Assuring Against Defaults Caused by Non-Commercial Risk Occurrences

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: this rule sets forth the terms and conditions of Commodity

Credit Corporation's (CCC) Non-Commercial Risk Assurance Program (GSM-101) which is nded to encourage and increase commercial exports of agricultural commodities by U.S. exporters. U.S. private banking institutions have indicated that they would make additional financing available for export sales of agricultural commodities on credit if they could be protected against non-commercial risks such as insurrections, warfare, expropriation, governmental order or regulation, or an inability to transfer local currency into U.S. dollars. The rule authorizes CCC to enter into assurance agreements with U.S. exporters who sell on credit terms for periods up to three years to protect them against defaults in payments caused by the occurrence of non-commerical risks. The exporter may assign this protection to any U.S. bank which finances the export sales transaction. More specifically, the assurance provided by CCC protects the exporter (or the assignee U.S. bank) against loss from non-commercial risk defaults in payments by a foreign bank, under the letter of credit issued by the foreign bank to secure payments called for by the export credit sales agreement, or under a related obligation derived from the foreign bank's letter of credit.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

L. T. McElvain or Francis A. Woodling, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Telephone (202) 447-3224 or 447-3573.

SUPPLEMENTARY INFORMATION: On October 3, 1977, there was published in the FEDERAL REGISTER (42 FR 53628) a notice of proposed rulemaking setting forth the proposed Non-Commercial Risk Assurance Program (GSM-101) regulations. Written comments were received from eight commentators. Other comments were received orally during the comment period, primarily at public meetings held by CCC officials with trade and banking officials at Atlanta, Memphis, Dallas, and Fresno. Although a number of questions and suggestions were received, practically all of the comments agreed with the principle of the proposal.

DISCUSSION OF MAJOR COMMENTS

1. One commentator objected to the proposed program on the ground that taxpayer's money should not be exposed to non-commercial risks since they are risks which everyone dealing in the export business must assume.

CCC is aware of the possibility of loss arising from the occurrence of non-commercial risks in all foreign trade transactions. However, the reason for the rule is much broader than the protection of the exporter or his assignee against losses.

Exports of agricultural commodities are one of the principal foreign exchange and dollar earners for the U.S. If exports of farm products are increased, U.S. foreign exchange and dollar earnings will be increased. Additional exchange earnings will make the U.S. better able to liquidate its foreign debts and pay for the numerous materials and products it must buy currently from abroad because it does not produce enough of them at home to meet its domestic requirements. Based upon an extensive survey of the export trade and its financing institutions, it appears to CCC that farm exports can be significantly increased if private capital is induced to finance such exports on short term credit. Private capital sources have indicated it would provide such financing if afforded protection against non-commercial risks of payment over which it has no control.

Although Government funds will be expended if a loss occurs, the exporter pays for the protection being afforded the exporter or the assignee by GSM-101, and the sums thus obtained will minimize, if not fully offset, possible losses.

2. Several comments were received raising objections to the inference that only defaults in payments under foreign bank deferred payment letters of credit were intended to be protected under the proposed rule. It was said that such letters of credit, being issued in favor of the exporter, would restrict his ability to discount the paper representing his receivable with U.S. banks. Further, the commentators believed that the rule did not contemplate the use of the more commonly used letter of credit in deferred payment transactions where the exporter is authorized to draw time drafts on a U.S. bank which could be freely negotiated by the exporter after it has been accepted by the U.S. bank. In such cases, the obligation of the foreign bank to make payment would run directly to the accepting U.S. bank rather than to the exporter.

In order to clarify the objective of the rule and in line with these comments, modifications were made in §§ 1487.1(a), 1487.2 (c) and (k), 1487.8 (a) and (b), and 1487.9(c). In those cases where a U.S. bank accepts the exporter's drafts, the exporter may assign the proceeds of his assurance agreement to the accepting U.S. bank.

3. Section 1487.2 Definition of Terms—Two similar comments suggested that the definition of "Non-Commercial Risk" be broadened to include the failure of a government owned or controlled foreign bank to make payments when due, whatever the cause. The commentators believed that: (1) it is very difficult to differentiate non-commercial risks from commercial risks when a government controlled foreign bank defaults; and that (2) government control of a bank implies that the full faith and credit of the government guarantees payment of the bank's obligations. Hence, any default by the bank is to be imputed to the government which controls it.

This suggestion was not accepted. CCC believes that it would be very unlikely that a government would fail to rescue a financially ailing bank owned or controlled by the government. Nevertheless, CCC feels that the failure of a government owned or controlled bank which is clearly attributable to poor business and management practices is a commercial risk outside the purview of the rule. If this suggestion is adopted, CCC would be guaranteeing the payment of obligations of such a bank, regardless of the reason for default, without any risk whatsoever to U.S. banks participating in the financing. The result of such a guarantee would be the refusal by U.S. banks to purchase the exporter's account receivables unless they were secured by obligations of government owned or controlled foreign banks. It is believed this result would not comport with the program objective of increasing U.S. agricultural exports.

4. Section 1487.3 Application for Assurance Agreement—One comment contains the suggestion that CCC should issue an approval upon receipt of an assurance application. The proposed rule provides for an assurance agreement to be issued by CCC for each shipment in the export sale just prior to the loading of each shipment. This suggestion is directed particularly to those large export sales calling for a number of separate shipments. The commentator states that in these cases, a buyer often provides a different letter of credit issued by a different foreign bank for each shipment.

This suggestion was not accepted. We understand that in the case of export sales involving multiple shipments, the exporter frequently will not know until shortly before shipment whether or not the buyer desires credit terms for that particular shipment. It is only where credit terms are requested by the buyer that an assurance agreement serves any purpose. Thus, the rule provides that the exporter may apply for an assurance agreement just prior to shipment.

Further, the authority of CCC to enter into assurance agreements is limited to a total dollar amount of coverage. Were this suggestion adopted, it would be necessary to earmark a part of the limited dollar authority sufficient to cover all assurance agreements which could possibly be request-

ed pursuant to a particular approval. This could permit an exporter with one or more large multiple shipment export sales to preempt a large part of the dollar authority to the detriment of other exporters without any certainty that all or any of the amount of the approval would be used by the exporter.

5. Section 1487.6 (a) and (b). Assurance Fees and Rates—(a) One commentator objected to the limitation of interest to 6 percent per annum which CCC will include in its coverage of an export credit sale. The commentator reasoned that 6 percent may be less than the rate of interest to which a seller on credit is entitled and wants. He suggested that CCC adopt the formula used by Export-Import Bank or a similar formula to determine the amout of interest on loans which it will guarantee, namely: The lesser of (a) the rate specified in the loan agreement and (b) one percent over the U.S. Treasury rate for comparable maturities.

After careful consideration of this suggestion, it was not accepted. Until experience with the program suggests otherwise, it is believed that certainty as to the rate which will be covered is more important than the rate itself. The question of interest coverage, however, will be reviewed at an appropriate time in the light of experience gained in administering the program.

(b) No serious objection was raised concerning the requirement that fees be paid at the time an application for an assurance agreement is made. However, a question was raised about the computation of the fee in the case of "call sales". A "call sale" is one in which the price (upon which the fee is based) to be paid by the buyer is to be fixed at future time in accordance with a formula. Such a formula, for example, might provide that the selling price will be an agreed number of points above or below a particular futures trading position on a selected day (the "call day") in the future.

The precise amount of an assurance fee cannot be determined prior to the time the f.o.b. price itself is determined. In such cases under the rule, the exporter could wait until the f.o.b. price is determined before applying for an assurance agreement. Alternately, the exporter could apply for an assurance agreement based upon a conservative estimate of what the price will be when it is determined. In the latter situation, the exporter could apply later for an increase in his assurance agreement coverage should that be necessary. However, because the total dollar amount of all assurance agreements which can be in effect at any one time will be limited, there is no certainty that full coverage can be obtained by the exporter when it is requested under either alternative.

6. Section 1487.8 Notice of Default—Two commentators suggested that the documentation required to be submitted after default be submitted, instead, as a part of the evidence of export required by § 1487.7. The reasoning supporting this suggestion is that when a default occurs after the export has taken place (possibly some appreciable time after export), the exporter might not then be in business and the documents required might otherwise be unavailable. This suggestion would guard against such eventuality.

On balance, it was determined that adoption of the suggestion would place an unjustifiable burden on the exporter and indeed, upon CCC. Accordingly, the suggestion was rejected. It does not appear reasonable to assume that defaults in payments will occur for many of the export sales covered by the program.

Most exporters, it is thought, will not finance their credit sales themselves, but will obtain financing from U.S. banks, to which proceeds of assurance agreements will be assigned. Banks which finance these sales can protect themselves against the eventuality cited, if they care to do so, by requiring the exporter to provide them with default documentation at the time they provide financing to the exporter.

7. Section 1487.11 Assignment—One commentator suggested the removal of the limitation on the assignment of assurance agreement proceeds to only U.S. banks and U.S. financing institutions. It was proposed that the protection being provided under the assurance agreement should run to any holder in due course of the instrument representing the future payment obligation. Also, it was theorized that the exporter, in whose favor the payment instrument would be issued could thus be able to endorse it to any buyer anywhere without recourse. The "paper" representing the undertaking to pay at a future time for agricultural commodities delivered now can often be "sold", i.e., discounted, by the exporter on much more favorable terms in foreign money markets than the United States.

CCC believes that the suggestion, if adopted would be useful primarily to very large exporters and not to the majority of the export trade. It further feels that such large exporters could, even if the suggestion is not adopted, still participate in the program although at some loss in flexibility in the customary handling of their financing operations. Also, it was felt that administration of the program by CCC would be much more difficult, especially when defaults occurred, if it were necessary to deal with previously unidentified assignees outside the United States. For the foregoing reasons, CCC has determined not to adopt this suggestion at this time.

8. Section 1487.13 Shipment of Commodities on Vessels Calling at North Vietnamese Ports—This provision in the proposed rule has been omitted because the National Security Council on June 10, 1977, rescinded its prohibition on the shipment of U.S. financed cargoes from the United States on foreign flag vessels which have called at North Vietnam ports.

Accordingly, with these changes and additions, the proposed rule (7 CFR Part 1487) is adopted.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Issued at Washington, D.C., this 27th day of January 1978.

GEORGE S. SHANKLIN,
Acting Vice President and General Sales Manager, Commodity Credit Corporation.

Subpart—Assuring Against Defaults Caused By Noncommercial Risk Occurences

GENERAL

Sec.
1487.1 General statement.
1487.2 Definition of terms.

ASSURANCE AGAINST NONCOMMERICAL RISK DEFAULTS

1487.3 Application for assurance agreement.
1487.4 Assurance agreement.

ASSURANCE RATES AND FEES

1487.5 Assurance rates.
1487.6 Assurance fees.

DOCUMENTS REQUIRED AFTER EXPORT

1487.7 Evidence of export.

LOSSES CAUSED BY NONCOMMERCIAL RISK DEFAULTS

1487.8 Notice of default.
1487.9 Payment of losses.
1487.10 Recovery of losses.

MISCELLANEOUS PROVISIONS

1487.11 Assignment.
1487.12 Convenant against contingent fees.
1487.13 Officials not to benefit.
1487.14 Exporter's records and accounts.
1487.15 Communications.

AUTHORITY: Sec. 5(f), 62 Stat. 1072 (7 U.S.C. 714c (f)).

Subpart—Assuring Against Defaults Caused by Noncommercial Risk Occurences

GENERAL

§ 1487.1 General statement.

(a) This part contains the regulations governing the Commodity Credit Corporation noncommercial risk assurance program, also referred to herein as "GSM-101." Exporters of U.S. agricultural commodities usually require importers to guarantee payment of the selling price of commodities sold

on a deferred payment basis. The guarantee may be in form of an irrevocable foreign bank letter of credit in favor of the exporter who may draw drafts for the deferred payments to be presented to the foreign bank as such payments become due. Or the foreign bank letter of credit may authorize the exporter to draw drafts on and for acceptance by a U.S. correspondent bank of the foreign bank. In either case, the exporter may discount the receivable with a U.S. bank or financial institution so that he may realize the proceeds of his sale prior to the deferred payment dates. GSM-101 is designed to protect the exporter or his assignee against loss from noncommercial risk defaults in payments by a foreign bank under the letter of credit issued by the foreign bank to secure payments called for by the export credit sales agreement, or under a related obligation arising from the foreign bank's letter of credit. By transferring the noncommercial risk of loss from exporters and their financing institutions to CCC, GSM-101 is intended to: (1) Facilitate exportation, (2) forestall or limit declines in exports, (3) permit exporters to meet competition from other countries, and (4) increase commercial exports of U.S. agricultural commodities.

(b) GSM-101 will be administered by the Office of the General Sales Manager, U.S. Department of Agriculture.

(c) The provisions of Pub. L. 83-664 (Cargo Preference Act) are not applicable to shipment of commodities assured as to noncommercial risks under GSM-101.

(d) GSM-101 will be supplemented by USDA announcements.

§ 1487.2 Definition of terms.

(a) "Assistant Sales Manager" means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, or his designee.

(b) "Assured value" means the maximum amount CCC agrees to pay the exporter under the assurance agreement. The assured value shall not exceed the unpaid balance of the port value of the commodity prior to shipment plus interest as indicated in the export credit sale but not more than 6 percent per annum on such unpaid balance to the date(s) payment is due.

(c) "Assurance agreement" means the written agreement under which CCC undertakes, for a period not exceeding 3 years after export, to protect the exporter or assignee from defaults by a foreign bank caused by noncommercial risks under the foreign bank's letter of credit supporting the exporter's export credit sales contract or under the foreign bank's related obligation under its letter of credit to the exporter.

(d) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(e) "Date of export" means the onboard date of an ocean bill of lading or onboard ocean carrier date of an intermodal bill of lading.

(f) "Date of sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the importer under which a firm dollar-and-cent price has been established or a mechanism to establish the price has been agreed upon.

(g) "Export credit sale" means an agreement by an exporter to sell eligible U.S. agricultural commodities for U.S. dollars to an importer. The agreement shall provide for export of the commodities from the United States to eligible countries within 12 months from the contract date and for payment by the importer on a deferred payment basis not exceeding 36 months from the date(s) of export.

(h) "Exporter" means an individual, group of individuals, partnership, corporation, association, cooperative, or any other entity: (1) That is financially responsible, (2) engaged in the business of buying or selling commodities for export and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has someone on whom service of judicial process may be had within the United States, and (3) not suspended or debarred from contracting with or participating in any program administered by CCC on the date of issuance of the assurance agreement.

(i) "Foreign bank letter of credit" means an irrevocable commercial letter of credit issued in favor of the exporter by a banking institution in the destination country pursuant to an export credit sale, which provides for deferred payments in U.S. dollars.

(j) "Importer" means a foreign buyer who enters into an export credit sale contract on a deferred payment basis with a U.S. exporter.

(k) "Noncommercial risk" means the risk of loss as a result of failure by the foreign bank, through no fault of its own, to make remittances pursuant to its letter of credit or related obligation arising out of the letter of credit because of: (1) War, hostilities, civil war, rebellion, insurrection, or civil commotion; or (2) expropriation, confiscation, or like action by government; or (3) the imposition by governmental authority of any order, decree, or regulation of general applicability having the force of law; or (4) the failure of the central exchange authority to transfer local currency into dollars.

(l) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(m) "Port value" means the total value of the export credit sale, less any discounts or allowances, basis f.a.s. or f.o.b. at U.S. ports. Such value shall include the value of the upward loading tolerances, if any, as provided for by the export credit sales contract.

(n) "USDA announcement" means an announcement issued by the U.S. Department of Agriculture supplementing these regulations. An announcement may include identification of eligible agricultural commodities and countries, dollar limitation of CCC exposure in a country and other information.

ASSURANCE AGAINST NONCOMMERCIAL RISK DEFAULTS

§ 1487.3 Application for assurance agreement.

(a) An exporter shall submit a written application for an assurance agreement to the office specified in § 1487.15. An application may be made by telephone, but it must be confirmed in writing. An application shall include the full business name and address of the exporter and the following:

(1) Name of the destination country.

(2) Name and address of importer.

(3) Date of sale.

(4) Exporter's sale number.

(5) Delivery period.

(6) Kind and description of the commodity.

(7) Quantity.

(8) Port value.

(9) Assured value.

(10) Estimated payment schedule(s) for each shipment to be made under the assurance agreement showing the estimated payment due dates and estimated amounts due separately for both principal and interest.

(b) An application for an assurance agreement may be rejected, approved with modifications, or approved as submitted by the Assistant Sales Manager. In the event the application is approved, the Assistant Sales Manager shall cause an assurance agreement to be issued in favor of the U.S. exporter.

§ 1487.4 Assurance agreement.

(a) The assurance agreement shall provide that CCC will pay the U.S. exporter or his assignee in U.S. dollars for losses resulting from the failure of the foreign bank which issues the bank letter of credit securing the export credit sale to honor drafts drawn upon it or otherwise to remit amounts properly due the exporter or the assignee, when such defaults are caused by the occurrence of noncommercial risks arising after export.

(b) The assurance coverage shall become effective on the date(s) of export(s) and continue in force for the period covered by the payment schedule not exceeding 36 months from the dates of such export(s). Exports made prior to receipt by CCC of a telephonic or written application for an assurance agreement or exports made after the final date for export shown on the assurance agreement or amendment

thereof are ineligible for assurance coverage, except where it is determined to be in the interest of CCC.

(c) The assurance agreement may contain such terms, conditions, and limitaions not inconsistent with GSM-101 as are deemed necessary or desirable by the Assistant Sales Manager.

(d) The assurance agreement may be amended by the parties thereto provided such amendment is in conformity with GSM-101 at the time of amendment. Amendments may include a change in the credit period or an extension of time to export. Any amendment of the assurance agreement may be subject to an increase in the assurance fee. Any amendment shall indicate its effective date and shall apply only to exports made on or after that date.

ASSURANCE RATES AND FEES

§ 1487.5 Assurance rates.

The assurance rates will be based upon the length of the payment terms provided by the export credit sale contract, the degree of risk that CCC assumes, and any other factors which CCC believes should be considered. Assurance rates charged by CCC under GSM-101 will be available upon request from the office specified in § 1487.15.

§ 1487.6 Assurance fees.

(a) The assurance fee will be computed on the basis of the assurance rate and the assured value.

(b) The exporter shall remit, with his written application, the full amount of the fee based on the applicable rate. If the application is submitted by telephone, telex, or TWX, final approval of the application will not be given until the fee has been received by CCC. Approval of the application will be final and refund of the assurance fee will not be made after approval unless the Assistant Sales Manager determines that such a refund will be in the interest of Commodity Credit Corporation.

(c) If the application for an assurance agreement is not approved or is approved only for a part of the coverage requested, a full or pro rata refund of the remittance will be made. The assurance fee shall be made payable to CCC and mailed to the office specified in § 1487.15.

DOCUMENTS REQUIRED AFTER EXPORT

§ 1487.7 Evidence of export.

(a) The exporter shall provide a written report to the office specified in § 1487.15 within 20 days following each export covered under the assurance agreement. This report shall include the following:

(1) Assurance agreement number.

(2) Date of export.

(3) Exporter's sale number.

(4) Port value exported.

(5) Kind, quantity, and description of the commodity exported.

(6) Statement that the agricultural commodities of the grade, quality, and quantity called for in his sales contract with the foreign importer have been exported.

(7) A statement that he has in his files documents evidencing the obligation of the foreign importer and that he will retain such documents in his files until three years after maturity of the related assurance agreement.

(8) A statement that a letter of credit has been opened in favor of the exporter to cover the port value of the commodity exported.

(9) A payment schedule showing the payment due dates and amounts due separately for both principal and interest for which credit has been extended to the importer.

(b) If the report required by paragraph (a) of this section is not received by CCC within 20 days after the date of the export, the assurance agreement shall become null and void with respect to defaults in payments applicable to such export. This provision may be waived by the Assistant Sales Manager for good cause shown.

LOSSES CAUSED BY NONCOMMERCIAL RISK DEFAULTS

§ 1487.8 Notice of default.

(a) If the foreign bank issuing the letter of credit fails to make a remittance pursuant to the terms of the letter of credit or a related obligation arising under the letter of credit and such default appears to be attributable to the occurrence of a noncommercial risk, the exporter or the assignee shall promptly furnish a written notice of default to the Treasurer, CCC at the address indicated in § 1487.11(b). The notice shall include the assurance agreement number, the amount due, the date of refusal to pay, and reason for the default.

(b) Within 30 days after the notice of default, the exporter or the assignee shall furnish a claim for loss with the following information and documents to the Treasurer, CCC:

(1) Assurance agreement number.

(2) A certification that the scheduled payment has not been received.

(3) A copy, certified as true and correct by the exporter, of each of the following:

(i) Foreign bank letter of credit securing the export credit sale or the related obligation of the foreign bank under its letter of credit.

(ii) Export credit sales contract.

(iii) Ocean carrier or intermodal bill(s) of lading with onboard ocean carrier date for each shipment.

(iv) Invoice(s) showing the port value of the commodities exported.

(c) A claim for a loss by the exporter or assignee shall not be honored if it is not made in writing to the Treasurer, CCC prior to the expiration of six months from the date of default of the scheduled payment.

§ 1487.9 Payment of loss.

(a) Upon receipt of the information required under § 1487.8, and such evidence as CCC may deem necessary for the purpose of establishing that the loss was occasioned by the occurrence of a noncommercial risk default, CCC shall promptly determine whether or not a loss has occurred for which CCC is liable under the applicable assurance agreement and these regulations. CCC will promptly notify the exporter of its determination.

(b) CCC's maximum liability will be limited to the assured value as shown in the assurance agreement. The liability of CCC shall be reduced to the extent that the exporter has obtained other valid and collectible coverage compensation for such loss. If the assured value covers only a percentage of the port value of an export credit sale, the liability of CCC shall be limited to such percentage of the loss.

(c) CCC shall only honor claims for losses on amounts not paid as scheduled. CCC shall not honor claims for amounts due under an accelerated payment clause in the export credit sales contract or the letter of credit or any related obligation under the letter of credit unless it is determined to be in the interest of CCC by the Assistant Sales Manager.

(d) If CCC determines that it is liable to the exporter and/or his assignee, the exporter and/or his assignee shall execute and submit to CCC an instrument, in form and substance satisfactory to CCC, subrogating to CCC their respective rights for the amount of payment in default under the applicable export credit sale. After receipt of an instrument of subrogation, CCC will remit the amount of the loss plus interest, at the Federal Reserve Bank of New York discount rate in effect on the date of default, beginning with the 31st day after notice of default was received by CCC and continuing to the date payment is made by CCC

(e) Upon payment of a claim to the exporter or his assignee, the exporter or his assignee shall cooperate with CCC to effect recoveries from the foreign bank and/or the importer.

§ 1487.10 Recovery of losses.

(a) Upon payment of loss to the exporter or his assignee, CCC will notify the importer and/or the foreign bank of its rights under the subrogation agreement to recover all monies in default.

(b) In the event monies for the defaulted payment are received by the exporter or the assignee from the im-

porter, foreign bank, or any other source whatsoever, such monies shall be immediately paid to the Treasurer, CCC.

(c) Recoveries made by CCC from the importer or foreign bank and recoveries received by CCC from the exporter or assignee or any other source shall be allocated by CCC to the exporter or assignee and CCC on a pro rata basis as their respective interest may appear.

(d) Notwithstanding any other terms of the assurance agreement, the exporter shall be liable to CCC for any amounts paid by CCC under the assurance agreement when and if it is determined by CCC that the exporter has been or is in breach of any contractual obligation, certification or warranty made by him for the purpose of obtaining the assurance agreement.

MISCELLANEOUS PROVISIONS

§ 1487.11 Assignment.

(a) The exporter may make an assignment of proceeds payable by CCC under the assurance agreement to only a bank or other financing institutions in the United States. The assignment shall cover all amounts payable under the assurance agreement not already paid and shall not be made to more than one party.

(b) An original and two copies of the written notice of each assignment of monies that may be due or come due from CCC together with one signed copy of the instrument of assignment, which shall be a true copy of the original, must be filed by the assignee with the Treasurer, CCC, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

(c) Receipt of the notice of assignment shall be acknowledged by an official of CCC.

§ 1487.12 Convenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the assurance agreement, or that there is any agreement or understanding for commission, percentage, brokerage, or contingent fee, except in the case of bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of his warranty, CCC shall have the right, without limitation of any other rights it may have, to annul the assurance agreement without liability to CCC.

§ 1487.13 Officials not to benefit.

No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the assurance agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the assurance agreement if made with a corporation for its general benefit.

§ 1487.14 Exporter's records and accounts.

Authorized officials of USDA shall have access to and the right to examine any pertinent books, documents, papers, and records of the exporter and/or the assignee involving transactions related to the export credit sale covered by the assurance agreement until 3 years after expiration of the coverage of the related assurance agreement.

§ 1487.15 Communications

Unless otherwise provided, written requests, notifications, or communications concerning the assurance agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250.

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

[FR Doc. 78-2751 Filed 1-30-78; 8:45 am]

[3410-30]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Interim Regulations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: The Department is issuing interim regulations for the Summer Food Service Program for Children in the areas of definitions, State agency responsibilities, the Program management and administration plan, State administrative funds, Program funds and Program payments. Publication of proposed regulations dealing with these areas is deemed to be impracticable and contrary to the public interest since the related Program responsibilities and functions require specific guidance and attention as soon as possible in order to implement the Program for the coming summer.

DATE: Effective February 1, 1978.

ADDRESS: Comments should be sent to Mr. Henry S. Rodriguez, Acting Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Mr. John M. Heslin, Child Care and Summer Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20205, 202-447-9072.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program for Children was created by amending section 13 of the National School Lunch Act (42 U.S.C. 1761), on October 7, 1975. That amendment provided for a Program of a two-year duration, to operate through fiscal year 1977. With the enactment of Pub. L. 95-166 on November 10, 1977, the Program was extended for an additional three years. The current law requires that the Department issue proposed regulations by November 1 of each fiscal year and final regulations by January 1 of each year. These timeframes could not be met for the current fiscal year because the law itself was not signed by the President until November 10, 1977, and because the law contained a number of new provisions which required considerable groundwork prior to the issuance of rulemaking. However, in order to ensure that the Program for the coming summer is implemented in accordance with the new legislation, certain parts of the regulations, as described below, must become effective immediately. Therefore, it is deemed to be impracticable and contrary to the public interest to issue proposed rules regarding these parts. Proposed regulations to implement the remaining areas unaffected by the interim regulations will be issued immediately following the publication of these interim regulations. It is, therefore, recommended that these interim regulations be reviewed in conjunction with the proposed regulations. The Department welcomes written comments on these regulations and will consider in the promulgation of final regulations all such comments, as well as those received on the proposed portion. To be assured of this consideration, comments on these interim regulations must be received on or before February 21, 1978. Final regulations will incorporate the parts affected by the interim and the proposed rules into one package. All reserved sections in these interim regulations will be found in the proposed regulations. Written comments will be available for public inspection during normal business hours in room 3300B Auditor's Building, 14th Street and Independence Avenue SW., Washington, D.C. The following are the changes in Program regulations effectuated by these interim regulations:

DEFINITIONS

The definition of "areas in which poor economic conditions exist" is expanded to include enrolled groups of children, one-third of whom are individually documented as being eligible for free or reduced price school meals. This expanded definition is in section 13(a)(1)(C) of the Act and incorporates a concept set forth in previous regulations.

"Camps" is defined to include nonresidential sponsors which serve four meals per day. Residential camps would be allowed to serve up to four meals per day. All camps would be required to collect family size and income information on individual enrolled children, and would be able to claim reimbursement for only those meals served to children eligible for free or reduced price school meals. For the first time the Act defines eligible children, describing them as persons eighteen years of age and under, or as individuals older than eighteen who are: (1) Determined to be mentally or physically handicapped, and (2) participating in a public school program established for the mentally or physically handicapped. The Department recognizes that these regulations might be simplified through the elimination or consolidation of some definitions, particularly those dealing with Program funding. Suggestions in this regard are welcome.

RESPONSIBILITIES OF STATE AGENCIES

In response to the statutory directive to establish standards and dates for efficient and effective Program administration (section 13(k)(2) of the Act), State agency personnel must be employed and available by specific dates which will be established by the State agency. This requirement reflects an awareness of the numerous duties which State agencies must carry out prior to the beginning of Program operations and is intended to ensure that personnel are available to perform these tasks in a timely and effective manner. These dates would be the latest dates for action; many State agencies will see and respond to the need to hire and assign personnel far in advance of these dates as well as subsequent to these dates should the need to do so arise.

State agency assistance to sponsors is modified somewhat from that required in prior years. Pre-approval visits to sites proposing to serve 300 or more children will not have to be conducted if the State agency has evidence on file to support the capability of the site. Site reviews will be conducted on a State-wide average basis rather than by a per-sponsor percentage (e.g., State agencies will be required to visit an average of 15 percent of the sites of a number of sponsors rather than 15 percent of the sites of each sponsor). The intention is to provide for flexibility by allowing a State to use its resources where it determines there is the greatest need.

State agencies will be required to announce the availability of the Program in all areas of the State. Pursuant to the mandate in the Act (section 13(a)(4)), States are required to seek out and assist potential sponsors in rural areas so that those areas will be served by the Program. The Department is aware that there are problems running the Program in rural areas (e.g., abnormal administrative costs, logistical problems bringing children to sites, etc.) and welcomes comments and suggestions as to how the Program might effectively reach rural areas. In addition, the Department intends to closely monitor State agency outreach outlined in the management and administration plan and will utilize information media already directed at rural residents. The Department also plans to conduct pilot projects in rural areas in order to evaluate the delivery of Program services in those areas and expects to solicit the cooperation of State agencies in this effort.

Under meal service restrictions (§ 225.5(j)) the meal limitations are described. Camps may be reimbursed for up to four meals per eligible child per day provided that one of the meals is a supplement. Other sponsors may be reimbursed for up to three meals per day per child with at least one supplement included in the three meal service. In either case, sponsors must demonstrate ability to handle the meal service proposed.

State agencies are required to plan for and carry out sponsor training based on the known needs of each sponsor. Since sponsors must attend this training in order to participate in the Program, the State agency will have to provide potential sponsors with every reasonable opportunity to attend.

State agencies must provide for audits of at least one-half of all sponsors annually in order to comply with the Office of Management and Budget Circulars A-102 and A-110. CPA audits required of all sponsors which will earn more than $50,000 in Program payments may be counted by the State in meeting this requirement. State agencies must, with the assistance of the Department, develop model food specifications and model meal quality standards. The individual food item specifications should address quantity and applicable quality characteristics such as grade, fat, seasonings, etc., of ingredients. The model meal quality standards should incorporate the individual food items in guidelines which would provide for acceptable meals including a wide variety of foods and adequate amounts of vitamins, minerals, etc., over a given period of time. Such specifications and standards must be made available to all sponsors and reflected in the State agency's standard form of sponsor and food service management company contract.

Each State agency will be provided with an amount of money for health inspections which is equal to one percent of the estimate in the State's approved management and administration plan of the amount of funds it needs to make payments to sponsors for their net Program costs and administrative costs. These funds will be made available to the States by April 15. The Department intends this money be used to provide for more extensive coverage (i.e., over and above that normally provided) by State and local health departments of Program related food preparation facilities and sites. State agencies should determine the best method or methods of obtaining this coverage and coordinate this activity with the agency or agencies chosen to carry out these inspections. The Department recognizes that methods for using these funds will vary from State to State and gives the State an opportunity to set out its methods in the State's plan. State agencies should begin their planning early, since, in many cases, this work would require health departments to hire additional staff personnel and do additional planning. Since this is a new area of Program operations, the Department is seeking comments and suggestions on how to utilize these funds most effectively.

Section 13(l) of the Act provides that food service management companies that wish to participate in the Program in any State must register with the State agency in that State. It also requires that the registration process include submission of specific information. These regulations require several items in addition to those required by the Act, including information regarding non-Program-related contract terminations and code violations, and certification as to knowledge of the content of Program regulations. These additional requirements are viewed as essential to the integrity and validity of the registration process. A timetable is set out by which this process is to be administered, with an exception only for food service management companies which will serve an area which might not otherwise be able to have a food service program. An opportunity for a hearing will be available for food service management companies whose application has been denied. Finally, it should be noted that food service management company registration will make the company eligible to participate in the Program only in the State or States in which it is registered. It is not a guarantee of participation in any State nor

should it be construed in any way as a USDA or State agency "seal of approval" or endorsement for anything other than Program eligibility.

PROGRAM MANAGEMENT AND ADMINISTRATION PLAN

The requirements for the Program management and administration plan differ from those in previous Program regulations primarily in that they incorporate new provisions found in the Act (section 13(n)). These include the State's plan for disbursing administrative payments to sponsors, for monitoring and inspecting sponsors and food service management companies, for submission and approval of sponsor applications, and for conducting hearing procedures. An additional provision is included which requires the plan submitted to have the original signature of the responsible official in the State agency.

STATE ADMINISTRATIVE FUNDS

As prescribed in the act (section 13(k)), the formula for allocating State administrative funds has been changed. Each State will receive, where applicable, 20 percent of the first $50,000 in Program funds (i.e., funds used to reimburse sponsors for their operating and administrative costs) which the State expended or obligated in the prior year; 10 percent of the next $50,000; 5 percent of the next $100,000 and 2 percent of the remainder. The payments would be made in three installments each fiscal year: On October 1, after approval of the management and administration plan, and on July 15. The first will be based on prior year expenditures; the other two on estimates in the approved plan. FNS Regional Offices will monitor each State's program on an ongoing basis, including two required reviews, to determine its actual size and to compare it with the State's management plan and Program regulations. Upward adjustments will be made if participation data so warrant. Downward adjustments may be made if a State's program failed to reach projected levels. In this regard, however, downward adjustment need not be made if the Regional Office determines that a State has acted in good faith and in accordance with its projected plan. A final reconciliation and any necessary adjustments would be made for the fiscal year prior to February 15 of the following fiscal year.

PAYMENTS TO STATE AGENCIES AND USE OF PROGRAM FUNDS

The act (section 13(d)) sets out specific dates (April 15, May 15, and July 1) by which funds must be made available to States to meet requests for advance payments. Each payment will be 65 percent of that which the State expects to expend for net Program payments (i.e., payments to sponsors for their operating costs, excluding administrative costs) in each month. By the same dates, funds to be used for sponsor administrative costs payments would also be provided to the State agencies. These payments would each be one-third of that needed for sponsor payments, determined by multiplying the number of meals by type, i.e., breakfast, lunch, supper and supplemental food, estimated to be served in the State during the period of Program operations by 3.75, 7.25, 7.25, and 2.00 cents, respectively.

PROGRAM PAYMENTS

Start-up funds are available to State agencies and may be provided to sponsors. State agencies which provide start-up payments must include a section on their Program application form with which they can be requested. These payments may not be more than 20 percent of a sponsor's administrative budget.

As required under the Act (section 13(b)(1)), the maximum per-meal rates payable for net program costs (i.e., all allowable sponsor's costs except for administrative costs) have been adjusted to reflect changes in the series for food away from home of the Consumer Price Index for the year ending November 30, 1977. The Department is conducting the mandated study of food service operations. Based on the preliminary data currently available, sufficient reliable information is not obtainable in time to further adjust these rates. The conduct of the study will continue through the upcoming summer and any resulting adjustments will be made for use in fiscal year 1979.

Advance payments to sponsors for operating costs must be made available in accordance with the formula set out in the Act (section 13(e)(2)). The formula makes a distinction between sponsors which prepare their own meals and those which use a food service management company. The former may be advanced up to 65 percent of State agency estimates; the latter up to 50 percent. There is a further per-sponsor limit of $40,000 per month for both operating and administrative costs which a State agency may waive if there is a demonstrable need and the sponsor's administrative capability to handle larger Program payments is evident. All State agencies must include on Program application forms a section allowing sponsors to request the first advance payment.

Administrative costs payments to sponsors are payable on June 1, July 15, and at the time of the payment of the final Claim for Reimbursement. Assuming that a sponsor operates at the level set forth in its approved administrative budget, each payment would be one-third of that budget. The timing and the amounts of these payments are affected by provisions which (1) limit them to months in which a sponsor operates for more than 10 days, (2) require a request for them at least 30 days prior to their payment, (3) require certifications by the sponsor as to actual levels of operation, and (4) limit them to actual expenditures when actual expenditures fall short of projected, approved budget expenditures. The intent of these provisions is to make administrative costs payments available to sponsors in a manner which ensures appropriate levels of administrative control and at the same time meets the needs of sponsors.

The Act (sections 13(b)(3) and (b)(4)(B) and (C)) provides that each sponsor submit a complete administrative budget for approval by the State agency and that sponsors be paid for all allowable administrative costs contained in the budget as long as the total of those costs did not exceed maximum levels set by the Department. The Department is required to conduct a study of administrative costs to determine these levels. The conduct of the study is underway but the Department believes that it will not be completed in time to set the levels to be used this summer. Accordingly, the per-meal rates found in § 225.8(c) will be used. Thus, a sponsor's administrative costs payments will be the lesser of the approved budget, actual allowable administrative expenditures or meals by type times rates.

Accordingly, the Department is issuing interim regulations to read as follows:

Subpart A—General

Sec.
225.1 [Reserved]
225.2 Definitions.
225.3 [Reserved]

Subpart B—State Agency Provisions

225.4 [Reserved]
225.5 Responsibilities of State agencies.
225.6 Program management and administration plan.
225.7 Payment and use of State administrative funds.
225.8 Payments to State agencies and use of Program funds.

Subpart C—Sponsor Provisions

225.9 Requirements for participation.
225.10-11 [Reserved]
225.12 Program payments.
225.13 Program payment procedures.
225.14 [Reserved]

Subpart D—[Reserved]

AUTHORITY: Sec. 2, Pub. L. 95-166, 91 Stat. 1325 (42 U.S.C. 1761) sec. 7, Pub. L. 91-248, 84 Stat. 211, (42 U.S.C. 1759a)

Subpart A—General

§ 225.1 [Reserved]

§ 225.2 Definitions.

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

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

(c) "Administrative costs payment" means financial assistance paid to a sponsor for its administrative costs.

(d) "Advance payments" means financial assistance made available to a sponsor for its net Program costs or administrative costs prior to the month in which such costs are incurred.

(e) "Areas in which poor economic conditions exist" means (1) the local areas from which a site draws its attendance in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced priced lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of Program sites, or from other appropriate sources, and (2) an enrollment program in which at least 33⅓ percent of the children are eligible for free or reduced price school meals as determined by statements of eligibility based on the size and incomes of the families of the children enrolled.

(f) "Camps" means residential summer camps which offer a regularly scheduled food service as part of an organized program for enrolled children, and nonresidential programs which offer a regularly scheduled organized cultural or recreational program for enrolled children and which serve such children four meals a day.

(g) "CCSPD" means the Director of the Child Care and Summer Programs Division of the Food and Nutrition Service of the Department.

(h) "Children" means (1) persons 18 years of age and under and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public school program established for the mentally or physically handicapped.

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

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

(k) "Department" means the Secretary of the U.S. Department of Agriculture.

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

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

(n) "FNSRO" means the Regional Administrator of the appropriate FNS Regional Office.

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

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

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

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

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

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

(u) "Net Program payments" means financial assistance paid to a sponsor for its net Program costs.

(v) "OIG" means the Office of the Inspector General of the Department.

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

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

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

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

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

(bb) "Session" means a specified period of time during which an enrolled group of children attend a camp.

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

(dd) "Sponsors" means nonresidential public or private nonprofit institutions and public or private nonprofit camps that develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs (sponsors are referred to in the Act as "service institutions").

(ee) "Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a food service under this part and to establish efficient management procedures therefor.

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

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

§ 225.3 [Reserved]

Subpart B—State Agency Provisions

§ 225.4 [Reserved]

§ 225.5 Responsibilities of State agencies.

(a) *State agency personnel.* Each State agency shall provide sufficient qualified consultative, technical and managerial personnel to administer the Program and monitor performance and to measure progress toward achieving Program goals. The State agency shall assign specific Program responsibilities to such personnel so as to ensure that all applicable requirements under this part are met. All administrative personnel shall be employed and available for Program duties at least 30 days prior to the State agency's application deadline date and all field staff personnel shall be employed and available at least 15 days prior to the beginning of Program operations: *Provided, however,* That the State agency shall hire additional personnel subsequent to these dates if, due to unanticipated Program growth or Program irregularities, additional personnel are needed.

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

(1) Each State agency shall visit, prior to the approval of the application, all applicant sponsors which have not previously participated in the Program and all applicant sponsors who are expected to receive more than $50,000 in Program payments. These visits shall be made for the purposes of further assessing the applicant sponsor's potential for successful Program operations, assessing information submitted on its application, and assuring the State agency that the applicant sponsor is aware of its responsibilities under the Program.

(2) Each State agency shall, prior to approval, visit each new proposed nonschool site located in cities whose total elementary and secondary public school enrollment exceeds 75,000 for the purpose of evaluating its suitability for the food service proposed.

(3) Each State agency shall, prior to approval of any site with a proposed average daily attendance of more than 300 children, visit each such site to evaluate its capability of serving the number of children expected: *Provided, however,* That the State agency may elect not to carry out such a preapproval evaluation if the site has been used under the Program in a prior year and the State agency has documentation on file which supports the capability of the site and gives evidence of successful prior Program operations at the site.

(4) Each State agency shall review during the first 4 weeks of operations, all sponsors which operate 10 or more sites, and, at a minimum, an average of 15 percent of the sites of such sponsors, to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title) and other applicable instructions as issued by the Department.

(5) In addition to the review requirements described in § 225.5(b)(4) of this section, each State agency which expects to receive more than $250,000 in State administrative funds shall, during the first 4 weeks of operation, conduct reviews of an average of 75 percent of non-school sites, and 25 percent of school sites, of all sponsors which operate 10 or more sites and which are located in cities whose total elementary and secondary public school enrollment exceeds 75,000. In determining which sites shall be reviewed under this paragraph and under § 225.5(b)(4) of this section, the State agency shall consider, at a minimum, whether or not the site has been used in prior years, the performance of the site in prior years, the performance of other sites operated by the same sponsor in both prior years and the current year and the performance of the applicable sponsor in prior years and in the current year.

(6) Each State agency shall, in addition, review 80 percent of the remaining sponsors, and an average of 10 percent of the remaining sites of such sponsors, at least once during the period of Program operations.

(7) Documentation of Program assistance and results of such assistance shall be maintained on file by the State agency.

(c) *Program availability.* Each State agency shall, by March 15 of each fiscal year, announce the purpose, eligibility criteria and availability of the Program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall identify rural areas which qualify for the Program and shall actively seek eligible applicant sponsors to serve such areas.

(d)-(g) [Reserved]

(h) *Use of on-site facilities or school food service facilities.* State agencies shall make a positive effort to encourage sponsors to use the sponsors' own facilities or the facilities of public or nonprofit private schools to the maximum extent feasible, in the preparation, service and delivery of meals under the Program.

(i) *Application deadline date.* Each State agency shall establish a date by which all applicant sponsors wishing to participate in the Program shall submit a written application: *Provided, however,* That State agencies shall approve the application of an otherwise eligible applicant sponsor submitted after the date established by the State agency, when the failure to do so would deny the Program to an area in which poor economic conditions exist or a significant number of needy children will not have reasonable access to the Program. The State agency shall inform potential sponsors inquiring after the application deadline date of the possibility of approval if the sponsor qualifies under these terms. The State agency must approve all applications within 30 days after the application deadline date: *Provided, however,* That the 30 days may be extended upon approval by FNS. In the case of applicant sponsors which apply after the deadline date and qualify in accordance with the terms of this paragraph, the State agency shall approve such application as soon as possible after receipt.

(j) *Meal service restriction.* (1) A State agency shall restrict to one meal service per day (i) any site determined to be in violation of the meal service requirements as set forth in this paragraph and (ii) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the meal service requirements as set forth in this paragraph. If such action results in children not receiving any meals under the Program, the State agency shall make every reasonable effort to locate another source of meal service for such children. In addition, the State agency shall not approve the service of more than one meal per day at any site unless each type of meal is delivered separately within one hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at the site.

(2) Meals which may be served under the Program shall be breakfast, lunch, supper and supplemental food served between such other meals, except that supplemental food shall not be approved if the sponsor also participates in the Special Milk Program (7 CFR Part 215). Sponsors shall be approved to serve only up to three meals a day at each site, provided that at least one of the three meals is a supplement, except for camps, which shall be approved to serve up to four meals a day, provided that the camp has the administrative capability and the food preparation and holding facilities, and provided that the service period of different meals does not coincide or overlap. No sponsor shall be reimbursed for meals served outside of the meal service limitations contained in this subparagraph. No sponsor shall be approved for more than two supplements a day.

(3) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement

is served between lunch and supper. The service of supper shall begin no later than 6 p.m. None of the preceding time restrictions of this subparagraph shall apply to residential camps. The duration of the meal service shall be limited to 2 hours for lunch or supper and 1 hour for all other meals. Meals served outside of the period of approved meal service shall not be eligible for Program payments. Each sponsor shall serve only the type or types of meals for which it is approved in its agreement with the State agency.

(k)-(n) [Reserved]

(o) *Sponsor training.* Each State agency shall plan for and carry out Program training sessions for the supervisory personnel of all sponsors. Such training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training and to ensure that training is available to each sponsor at locations convenient to its area of operations at an appropriate time. A State agency shall deny participation to a sponsor whose personnel have not attended such training sessions.

(p) and (q) [Reserved]

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

(2) Each State agency shall for each fiscal year provide for audits of at least one-half of all sponsors participating in the Program during that fiscal year. Such audits may be made by State agency internal auditors, State Auditors General, State Comptrollers, or other comparable audit groups, or by certified public accountants. Audits conducted in accordance with the requirements in § 225.9(j) may be counted toward meeting this requirement.

(3) Each State agency shall coordinate its monitoring review findings under § 225.5(b) and the audit reports provided for under § 225.9(j). Each State agency shall ensure that monitoring is conducted to result in a representative review of the sponsor's operations under the Program.

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

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

(6) Use of audit guides available from OIG is encouraged. When these guides are utilized, OIG will coordinate its audits with State-sponsored audits to form a network of intergovernmental audit systems.

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

(s) *Food specifications and meal quality standards.* Each State agency shall, with the assistance of the Department, develop and make available to all sponsors, model food specifications and model meal quality standards which shall become part of the contract between sponsors and food service management companies.

(t) *Food quality and preparation facility inspections procedures.* Each State agency shall, with the funds authorized in § 225.8(i), establish a procedure for periodic inspections of the facilities of food service management companies as required in § 225.5(u)(3), and of sites participating in the Program. The procedures for carrying out such inspections and any testing or other related work shall be consistent with procedures used by local health authorities.

(u) *Food service management company registration.* (1) Each State agency shall, by February 1 of each year, provide written notice to all food service management companies which participated in the Program in either of the prior 2 years in that State a notification of mandatory food service management company registration. Such notification shall contain at a minimum (i) a statement of the requirement for food service management company registration with the State agency as a prerequisite to food service management company participation in the Program during the applicable fiscal year, (ii) a summary of those items which are required to be submitted in the application for registration as set forth in paragraph (u)(2) of this section, (iii) an enumeration of the specific criteria developed by the State agency upon which registrant eligibility shall be based, and (iv) other relevant information necessary to make application for registration. In addition, each State agency shall, by the same date, issue through the appropriate media a notification of mandatory food service management company registration and information necessary to make application for registration.

(2) By March 15 of each fiscal year, each food service management company which desires to participate in the Program within the State during such fiscal year shall submit an application for registration to the State agency. At a minimum, registration of food service management companies shall require (i) submission of each food service management company's name and mailing address and any other names under which such food service management company presently or in the past two years has marketed its services, (ii) a certification that the food service management company meets applicable State and local health, safety and sanitation standards, (iii) disclosure of past and present company owners, directors and officers, and their relationship, if any, to any sponsor or food service management company which participated in the Program in the past two years, (iv) records of contract terminations, disallowances, and health, safety, and sanitary code violations related to prior Program participation, (v) records of any other contract terminations and health, safety and sanitation code violations during the past two years, (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the Program and the local officials responsible for the operation of such facilities, (vii) the number of meals the distribution facility is able to prepare in a twenty-four hour period for use in the Program, (viii) a certification that the food service management company will operate in accordance with current Program regulations and (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to non-approved sites or for meals which are delivered to approved sites outside of the agreed upon delivery time or meals that do not meet the meal requirements and food specifications contained in the sponsor and food service management company contract.

(3) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the Program or if it has been seriously deficient in its Program participation in prior fiscal years. The State agency shall provide for inspections of all food service management companies' food preparation facilities which each food service management company has listed on its application for registration. Such inspections shall be carried out prior to registration to determine each facility's suitability for preparation of meals for use in the Program. The State agency shall register only those facilities of a food service management company which have been inspected and have been determined to be suitable: Provided, however, That the State agency may elect not to inspect a food service management company's facility if such facility is located outside of the State in which the registration is being made. Prior to the registration of any out of State facility, the State agency shall promptly notify FNSRO of the name and location of the facility.

(4) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within a reasonable time. The State agency shall inform any food service management company whose application for registration has been denied of the procedures to request a review of the denial as provided for in § 225.5(x). The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(5) By April 15 of each fiscal year, each State agency shall forward to the Department, on a form provided by FNS, information on all food service management companies which applied for registration to the State agency and their registration status. The Department shall allow any food service management company to review any information concerning that company which was submitted to FNS as required by this paragraph.

(6) A State agency shall consider a food service management company's application for registration submitted after March 15, if the State agency determines that the lack of registration could result in an area in which poor economic conditions exist not being served or a significant number of needy children not having reasonable access to the Program.

(7) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted on the form is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(v) and (w) [Reserved]

(x) *Sponsor and food service management company hearing procedures.* (1) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an applicant sponsor's application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a denial of a sponsor's site or a denial of a food service management company's registration.

(2) At a minimum the procedure shall provide that:

(i) The denied applicant be advised in writing of the grounds upon which the State agency based the denial;

(ii) The denied applicant be advised in writing that the request for review must be made within a specified time. The State agency may establish this period of time at not less than one week nor more than two weeks from the date of receipt of the letter of denial;

(iii) The denied applicant be afforded the opportunity to review any information upon which the denial was based;

(iv) The hearing official be an official other than the one directly responsible for the original determination;

(v) The review be held within 2 weeks of the date of the receipt of the request for review;

(vi) The applicant may refute the charges contained in the letter of denial either in person or by mailing written documentation to the reviewing official. The applicant may retain legal counsel, or may be represented by another person;

(vii) Within 3 days after the applicant's hearing, or within 3 days after receipt of written documentation, the reviewing official must make a determination based on a full review of the administrative record;

(viii) The State agency must inform the applicant of the determination of the review by certified mail, return receipt requested. The determination by the State reviewing official is the final administrative determination to be accorded an applicant.

(y) and (z) [Reserved].

§ 225.6 Program management and administration plan.

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

(1) How the State plans to use Program funds and funds from within the State to the maximum extent practicable to reach needy children, including needy children in rural areas. The State's methods for assessing need, and its plans and schedule for informing potential sponsors of the availability of the Program should be clearly defined.

(2) Estimated number and type of sponsors expected to participate and estimated number of sites and average daily attendance, and a description of the estimating methods used. Include data on the number of sponsors which participated in the prior year.

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

(4) Estimated amount of Program funds, by month, needed for net Program payments to sponsors.

(5) Estimated amount of Program funds, by month, needed for administrative cost payments to sponsors.

(6) The State's plans and schedule for providing technical assistance and training for sponsors including number of sponsor training sessions planned and number of reviews planned. Include data on the number of reviews conducted in the prior fiscal year.

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

(8) The State's plan to comply with the Department's standards for disbursing administrative payments to sponsors.

(9) The actions to be taken by the State agency to maximize the use of on-site meal preparation and the use of school food service facilities.

(10) The actions to be taken by the State to ensure that sites not operated by camps at which a Program food service is planned serve areas where poor economic conditions exist.

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

(12) The State's plan for monitoring and inspecting sponsors, sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently.

(13) The State's plan for timely and effective action on Program violations.

(14) The State's plan and schedule for submission and approval of sponsor applications.

(15) The number of needy children being reached by the Program.

(16) The State's plan for determining the amounts and timing of Program payments to sponsors and for disbursing such payments.

(17) The State's plan for ensuring fiscal integrity by auditing sponsors as provided under § 225.5(r), including data on the number of audits performed in the prior fiscal year.

(18) The State's plan and procedure for registering food service management companies.

(19) The State's procedures for granting a hearing and prompt determination to any sponsor wishing to appeal a State's ruling denying its application for Program participation, its site participation, Program advance payments, or Program reimbursement and the State's procedure for granting a hearing and prompt determination to any food service management company wishing to appeal a State's ruling denying the food service management company registration in the State.

(20) The State's plan for utilizing the funds provided for under § 225.8(i) to provide for health inspections and meal quality tests, including the estimated number and frequency of such inspections and tests and a description of the arrangements made by the State with the agencies which will perform these services.

(21) The amount of non-Federal funds made available to the State through direct State appropriations for the Program.

(22) An explanation of significant deviations in last year's actual Program operations and administration from that proposed in the prior year's plan.

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

(c) Significant changes in any portion of a Program management and administration plan shall be submitted for approval to FNS in the form of an amendment to the Program management and administration plan. An amendment need not be submitted to the Governor for his comments unless required by the State.

(d) The final plan submitted shall have the original signature of the appropriate State agency official.

§ 225.7 Payment and use of State administrative funds.

(a) For each fiscal year, the Secretary shall pay to each State agency for administrative expenses incurred in the Program an amount equal to (1) 20 percent of the first $50,000 in Program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next $50,000 in Program funds properly payable to the State in the preceding fiscal year; (3) 5 percent of the next $100,000 in Program funds properly payable to the State in the preceding fiscal year; and (4) 2 percent of any remaining funds properly payable to the State in the preceding fiscal year: *Provided, however,* That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any amendments to such plan as approved by FNS and any other information available to FNS.

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

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by Letter of Credit an initial allocation of State administrative funds for use in the fiscal year beginning on that October 1 in an amount not to exceed one-third of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section. For States which did not receive any Program funds during the fiscal year immediately preceding the fiscal year for which the initial allocation is being made, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section.

(e) Within 30 days after the State's application deadline date, FNS shall conduct an initial evaluation in the State for the purposes of determining whether an adjustment is necessary in the approved funding levels for State administrative costs. Such a determination shall be based on the participation levels contained in the applications submitted to the State including, but not limited to, numbers of sponsors and numbers of proposed sites, children to be reached and meals served compared with the estimated levels contained in the State's Program management and administration plan, the State's performance in accordance with the plan and the State's compliance with the requirements contained in this part. Any adjustments determined to be necessary based on this initial evaluation shall be reflected in an amendment to the State's Program management and administration plan.

(f) The balance of the State administrative funds shall be paid to the State not later than each July 15. This payment plus payments made under paragraph (c) and (d) of this section, shall not exceed the amount of State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section. FNS may adjust the amount of State administrative funds payable to a State on the basis of a midprogram evaluation of the State's actual program size, and the State's performance in accordance with the approved Program management and administration plan and any other State agency responsibilities contained in this part. In the conduct of these midprogram evaluations and in the making of these adjustment, FNS shall not decrease the amount of funds to any State which will not reach the estimated levels of participation contained in the approved plan, and any amendments thereto, if FNS determines that the State has made every reasonable effort to meet its responsibilities under the plan and the requirements set forth in this part.

(g) In no event may the sum of the payments made for a fiscal year under paragraphs (c), (d), and (e) of this section exceed the total amount of expenditures incurred by the State for its administrative costs for that fiscal year. Each State agency shall report to FNS information on the use in the prior fiscal year of Program funds and State administrative funds, on a form provided by FNS, not later than November 30 of each fiscal year. FNS shall make, prior to February 15 of each fiscal year, any adjustments necessary in the Letter of Credit to reflect actual expenditures in the prior fiscal year.

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

(a) Upon approval of the State's Program management and administration plan, the Secretary shall make available by Letter of Credit to the State agency Program funds to be used to make start-up payments, where appli-

cable, to sponsors as provided for in § 225.12(c).

(b) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available to each State agency by Letter of Credit Program funds to be used by the State agency to make advance net Program payments to sponsors in the months for which such Letter of Credit is issued. The amount of each of these payments shall be equal to 65 percent of the amount derived by multiplying the number of operating days in the month times the average daily attendance by meal type as estimated in the State's approved Program management and administration plan times the maximum allowable rates payable to sponsors for net Program payments as set forth in § 225.12(e).

(c) Not later than April 15, May 15, and July 1 of each fiscal year, the Secretary shall make available by Letter of Credit Program funds to be used by the State agency to make advance administrative cost payments to sponsors. The amount of each of these payments shall be equal to one-third of the sum of the products obtained by multiplying:

(1) The estimated number of operating days times estimated average daily attendance for breakfasts times 3.75 cents;

(2) The estimated number of operating days times estimated average daily attendance for lunches times 7.25 cents;

(3) The estimated number of operating days times estimated average daily attendance for suppers times 7.25 cents;

(4) The estimated number of operating days times estimated average daily attendance for supplemental foods times 2 cents. The estimates referred to in this paragraph shall be those which are contained in the approved Program management and administration plan.

(d) For sponsors who operate under a continuous school calendar, the Secretary shall make available Program funds by Letter of Credit to the State agencies to make advance payments to sponsors in an amount equal to the amount needed by the State agencies to make advance net Program payments and advance administrative cost payments to such sponsors as set forth in the State's approved Program management and administration plan, on the first day of the month prior to the month during which the food service will be conducted.

(e) The Secretary shall make available any remaining Program funds due no later than 60 days following receipt of valid claims from sponsors by the State agency. Any funds advanced to a State agency for which valid claims have not been established within 180 days after the sponsor's operation shall be deducted from the next monthly payment to the State.

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

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

(h) The State agency may use in carrying out special developmental projects an amount up to 1 percent of Program payments made in any fiscal year: *Provided, however,* That such projects have been included in the State's Program management and administration plan and have been approved in writing by FNS.

(i) By April 15 of each fiscal year the Secretary shall make available by Letter of Credit to each State agency an additional amount equal to 1 percent of Program funds estimated to be needed by the State agency for Program payments in the State's approved Program management and administration plan and any amendments thereto for the current fiscal year. These funds shall be used to provide for State or local health departments or other governmental agencies charged with health inspection functions, solely to carry out health inspections and meal quality tests: *Provided, however,* That if such agencies cannot perform such inspections or tests, the State agency may contract with an independent agency to conduct either the inspection or the meal quality tests or both. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.7(e) if such an adjustment is warranted. Program funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

Subpart C—Sponsor Provisions

§ 225.9 Requirements for participation.

(a)-(i) [Reserved]

(j) Each sponsor whose total Program payments under any Program agreement are expected to exceed $50,000 shall have an audit conducted of its Program claims and the supporting documentation for those claims by an independent certified public accountant or an independent State or local government accountant and shall submit to the State agency a copy of the letter of engagement with the accounting firm or individual which is to conduct the audit. The sponsor's final

Claim for Reimbursement under the agreement shall not be eligible for payment until the audit has been completed and the results have been reviewed by the State agency. The cost of the audit may be considered an administrative cost. All such audits shall be subject to review by the Department.

(k)-(m) [Reserved]

§ 225.10-11 [Reserved]

§ 225.12 Program payments.

(a) and (b) [Reserved]

(c) Sponsors which have executed an agreement may, at the discretion of the State agency, receive start-up payments not earlier than 2 months before beginning food service operations. Start-up payments shall not exceed 20 percent of the amount estimated by the State asgency to be needed by a sponsor to administer the Program as contained in the sponsor's administrative budget which shall be submitted to the State agency for approval provided for under § 225.9(e) [see proposed regulations]. Start-up payments shall be deducted from the first payment made to a sponsor for allowable administrative costs.

(d) [Reserved]

(e) Payment to a sponsor for net Program costs shall not exceed 92.75 cents for each lunch or supper, 51.50 cents for a breakfast and 24.25 cents for supplemental food: *Provided, however,* That the total Program payments paid to a sponsor for net Program cost do not exceed the lesser of: (1) the above rates times the meals by type actually served to eligible children during the Program operation, or (2) the actual net Program costs.

(f)-(h) [Reserved]

§ 225.13 Program payment procedures.

(a) and (b) [Reserved]

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

(d) Each month's advance net Program payment to any sponsor shall be in an amount equal to: (1) the total net Program payment for meals served by such sponsor in the same calendar month of the preceding calendar year, or (2) 50 percent of the amount determined by the State agency to be needed by the sponsor for meals, if the sponsor contracts with a food service management company, or (3) 65 percent of the amount determined by the State agency to be needed by the sponsor for meals for that month, if the sponsor prepares its own meals, whichever amount is greater: *Provided, however,* That the advance net Program payment may not exceed the total amount estimated by the State agency to be needed by the sponsor for meals to be served in the month for which the advance net Program payment is made.

(e) Not later than June 1 and July 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance administrative costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 days prior to the date for each such payment: *Provided, however,* That (1) the State agency shall not release the second month's advance administrative cost payment to any sponsor until the sponsor has certified that it is operating the number of sites for which the administrative budget was approved, and that there has been no significant change in its projected administrative costs since approval of the administrative budget, (2) no advance administrative costs payment shall be made for any month in which the sponsor will operate under the program for less than 10 days, and (3) in the case of a sponsor that operates less than ten (10) days in June but at least ten (10) days in August, the second month's advance administrative costs payment shall be made on August 15. Requests by sponsors for advance administrative cost payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(f) Each sponsor's first month's advance administrative costs payment shall be in an amount equal to one-third of the amount established by the State agency to be needed by the sponsor to administer the Program. Each sponsor's second month's advance administrative costs payment shall be in an amount equal to one-third of the amount established by the State agency to be needed by the sponsor to administer the Program. In

the case of sponsors which will operate ten (10) days or more in only one month and thereby will qualify for only one advance administrative costs payment the State agency shall provide an advance administrative costs payment of no less than one-half and no more than two-thirds of the amount established by the State agency to be needed by the sponsor as indicated in its approved administrative budget. The State agency shall forward any remaining payment due to a sponsor no later than 45 days following receipt of valid claims: *Provided, however,* That the State agency shall not pay any sponsor for its final claim until the sponsor has certified that it did operate all sites approved in the administrative budget and that there has been no significant change in the projected administrative costs since the preceding claim or, in the case of sponsors which will receive only one month's advance, that there has been no significant change in the projected administrative costs since payment of the initial advance administrative costs payment. The total Program payment paid to a sponsor for administrative costs shall not exceed the lesser of: (1) the approved administrative budget and any amendments thereto, or (2) actual expenditures incurred for administrative costs, or (3) the per-meal administrative rates contained in § 225.8(c) times meals by type actually served to eligible children.

(g) The total of the advance net Program payment to any sponsor for a given month and the advance administrative costs payment to the same sponsor for the same month shall not exceed $40,000: *Provided, however,* That a State agency may make advance payments totalling more than $40,000 to a sponsor for a given month if the State determines that a larger payment is necessary for the effective operation of the Program and the sponsor demonstrates sufficient administrative and management capability to justify a larger payment.

(h)-(i) [Reserved]

§ 225.14-19 [Reserved]

Subpart D—[Reserved]

(Catalog of Federal Domestic Assistance Program No. 10.559.)

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

Dated: January 27, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FRDoc.78-2814Filed1-30-78;9:18am]

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.

[3410-05]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 790]

INCOMPLETE PERFORMANCE BASED UPON ACTION OR ADVICE OF AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY

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

ACTION: Proposed rule.

SUMMARY: It is proposed that § 790.3 of 7 CFR Part 790 be amended to increase the authority of State ASC committees to approve payment for all cases where a producer acted in good faith based upon the action or advice of a representative of the Secretary and the program payments to the producers amounted to $1,000 or less. This delegation would eliminate the expense involved in processing such cases at the National level and give States more responsibility in handling State and local matters.

DATES: Comments must be received on or before March 2, 1978.

ADDRESS: Mail comments or objections regarding the proposed change to the Acting Director, Program Appeals Staff, Agricultural Stabilization and Conservation Service, Room 4721, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Arthur Reynolds, Program Appeals Staff, 202-447-6362.

It is proposed that 7 CFR section 790.3 be amended to read as follows:

§ 790.3 Delegation of authority.

The State committee may, in accordance with instructions issued by the Deputy Administrator, State and County Operations, ASCS, exercise the authority provided in this part in programs administered by the ASCS, in cases where the total of any payments and price support extended under this part does not exceed $1,000.

Signed at Washington, D.C. on January 17, 1978.

WELDON B. DENNY,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-2510 Filed 1-30-78; 8:45 am]

[3410-05]

[7 CFR Part 791]

AUTHORITY TO MAKE PAYMENTS WHEN THERE HAS BEEN A FAILURE TO FULLY COMPLY WITH THE PROGRAM

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

ACTION: Proposed rule.

SUMMARY: It is proposed that § 791.3 of 7 CFR Part 791 be amended to delegate to State ASC committees the authority to approve program payments not exceeding $1,000 in program benefits involving a failure to fully comply with the provisions of a program and classified under 7 CFR Part 791.

Experience has shown that in most failure to fully comply program cases where the Deputy Administrator determined that a producer acted in good faith and was entitled to some program payment, payments to producers amounted to $1,000 or less. To delegate to State committees the authority to authorize relief in such cases (classified under Part 791) would eliminate the expense involved in proc- essing such cases at the National level and give States more responsibility in handling State and local matters.

DATES: Comments must be received on or before March 2, 1978.

ADDRESS: Mail comments or objections regarding the proposed change to the Acting Director, Program Appeals Staff, Agricultural Stabilization and Conservation Service, Room 4721, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Arthur Reynolds, Program Appeals Staff, 202-447-6362.

It is proposed that 7 CFR § 791.3 be amended to read as follows:

§ 791.3 Delegation of authority.

The State committee may, in accordance with instructions issued by the Deputy Administrator, State and County Operations, ASCS, exercise the authority provided in this part in programs administered by ASCS, in failure to fully comply cases where the total of any payments and price support extended under this part does not exceed $1,000.

Signed at Washington, D.C. on January 18, 1978.

WELDON B. DENNY,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-2509 Filed 1-30-78; 8:45 am]

[3410-05]

Commodity Credit Corporation

[7 CFR Part 1430]

PRICE SUPPORT PROGRAM FOR MILK

Terms and Conditions of 1977-78 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering the semiannual adjustment in the support price for milk. This proposed rule is being issued pursuant to the requirement in the Food and Agriculture Act of 1977 that the support price for milk shall be adjusted semiannually to reflect any estimated change in the parity index during such semiannual period. The Secretary may also consider other matters pertaining to the milk support program.

DATE: Coments must be received on or before March 2, 1978, to be sure of consideration.

ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Sidney Cohen (ASCS), 202-447-4037.

SUPPLEMENTARY INFORMATION: Section 201(c) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, provides as follows: "The price of milk shall be supported at such level not in excess of 90 percent nor less than 75 percent of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet antici-

pated future needs. Notwithstanding the foregoing, effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1979, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk."

Section 201(d) of the act provides as follows: "Effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. * * * Any adjustment under this subsection shall be announced by the Secretary not more than thirty days prior to the beginning of the period to which it is applicable."

Therefore, the adjustment is estimated to require an increase in the support price to about $9.30 per hundredweight for manufacturing milk beginning April 1, 1978. The support price is for milk of national average milkfat content of 3.67 percent, or $9.09 for 3.5 milk.

In the October-December quarter, the first 3 months of the 1977-78 marketing year, milk production was 29.2 billion pounds, 2.4 percent more than 1 year ago. Purchases of dairy products by Commodity Credit Corporation (CCC) under the support program between October 1 and December 31 were 12.7 million pounds of butter, 2.1 million pounds of cheese and 68.7 million pounds of nonfat dry milk compared to 39.0 million pounds of butter, 27.1 million pounds of cheese and 45.9 million pounds of nonfat dry milk during the same period a year earlier.

Dairy products acquired under the program are made available for sale or for donation to various domestic and foreign food distribution programs.

PROPOSED RULE

Notice is hereby given that the Secretary of Agriculture is considering the semiannual adjustment in the level of the support price for milk as required by law, and the prices and terms of purchase by CCC of butter, cheese, and nonfat dry milk.

Prior to making any of the foregoing determinations, consideration will be given to any data, views and recommendations with regard to the determinations which are submitted in writing to the Director, Procurement and Sales Division. In order to be assured of consideration, all submissions must be received by the Director not later than March 2, 1978. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, room 5741, South Building, during regular business hours (8:15 a.m.-4:45 p.m.).

This notice of proposed rulemaking is issued under authority of section 201(c) and (d) of the Agricultural Act of 1949, as amended, (63 Stat. 1051, as amended; 7 U.S.C. 1446); and sections 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).

Signed at Washington, D.C., on January 25, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc 78-2578 Filed 1-30-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

(9 CFR Parts 317, 381)

NET WEIGHT LABELING

Public Hearing—Correction in Room Number

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of Public Hearing—Correction.

SUMMARY: This document corrects the room number for the public hearing on net weight labeling, to be held on February 9, 1978, beginning at 10 a.m.

DATE: The hearing will be held on February 9, 1978.

ADDRESS: Public hearing to be held in Conference Room B, Interdepartmental Auditorium, 1301 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6189.

SUPPLEMENTARY INFORMATION: On January 20, 1978, a notice was published in the FEDERAL REGISTER (43 FR 2881) announcing a public hearing to be held concerning proposed amendments to the Federal Meat and Poultry Inspection Regulations on uniform labeling requirements and uniform procedures for determining compliance with label statements of net contents of containers of meat or poultry products. This notice corrects the room number in which the public hearing will be held to Conference Room B, Interdepartmental Auditorium, 1301 Constituion Avenue NW., Washington, D.C. All other information stated in the January 20 notice remains the same.

Done at Washington, D.C., on January 26, 1978.

DONALD L. HOUSTON,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-2732 Filed 1-30-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

CODES AND STANDARDS FOR NUCLEAR POWER PLANTS

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulation, "Codes and Standards," to incorporate by reference a new edition and addenda of a national code that provides rules for the construction of nuclear power plant components. This amendment would provide for the use of updated methods in nuclear power plant construction.

DATES: Comment period expires March 2, 1978.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, Washington, D.C., 20555, attention: Docketing and Service Section.

FOR FURTHER INFORMATION CONTACT:

Mr. G. C. Millman, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6927.

SUPPLEMENTARY INFORMATION: On July 18, 1977 the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 36803) an amendment to § 50.55a which provided that the editions of Section III whose requirements must be met included those addenda through the Winter 1976 Addenda.

The 1977 Edition of the referenced American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code has since been issued as has the Summer 1977 Addenda. The Commission proposes to amend § 50.55a to incorporate by reference the 1977 Edition and the Summer 1977 Addenda of Section III of the ASME Boiler and Pressure Vessel Code. The 1977 Edition of Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME Code and Section XI addenda since the Summer 1975 Addenda are still being evaluated by the staff and are expected to be referenced with modifi-

cations in a subsequent amendment to the regulations.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated. All interested persons who wish to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by March 2, 1978. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

In § 50.55a of 10 CFR Part 50, paragraph (b) is revised to read as follows:

§ 50.55a Codes and Standards.

* * * * *

Each operating license for a boiling or pressurized water-cooled nuclear power facility shall be subject to the conditions in paragraph (g) and each construction permit for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55:

* * * * *

(b)(1) As used in this section, references[1] to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1977 Edition and addenda through the Summer 1977 Addenda.

(2) As used in this section, references[1] to Section XI of the ASME Boiler and Pressure Vessel Code include editions of Section XI only through the 1974 Edition and addenda only through the Summer 1975 Addenda.

* * * * *

(Secs. 103, 104, 161i, Pub. L. 83-703; 68 Stat. 936, 937, 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 2133, 2134, 2201(i), 5841).)

Dated at Bethesda, Md., this 19th day of January 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-2621 Filed 1-30-78; 8:45 am]

[1] These incorporation by reference provisions were approved by the Director of the Federal Register on March 17, 1972 and May 4, 1973.

[6714-01]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 337]

UNSAFE AND UNSOUND BANKING PRACTICES

Insider Transactions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed amendments to regulation.

SUMMARY: The FDIC proposes to amend its regulation dealing with "insider transactions" of insured State nonmember banks to: (1) Specify the circumstances under which the FDIC considers an insider transaction to be an unsafe or unsound banking practice; (2) make clear that the FDIC will take appropriate supervisory action when it determines that an insider transaction is an unsafe or unsound banking practice; (3) clarify what transactions are subject to the regulation's requirements; (4) clarify the regulation's recordkeeping requirements; and (5) prescribe specific reporting and review requirements with respect to correspondent accounts and certain bank stock loans. The proposed amendments are generally designed to clarify the FDIC's policy with respect to insider transactions and to respond to questions that have been raised since the FDIC's insider transaction regulation took effect on May 1, 1976.

DATE: Comments must be received on or before March 10, 1978.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments submitted will be made available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Alan J. Kaplan, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, telephone 202-389-4433.

SUPPLEMENTARY INFORMATION: The FDIC's insider transaction regulation (12 CFR 337.3) took effect on May 1, 1976. As was stated at the time of its proposals and adoption, the regulation is aimed at minimizing abusive self-dealing by "insiders" of insured State nonmember banks through the establishment of procedures designed: (1) To ensure that bank boards of directors supervise insider transactions effectively, and (2) to better enable FDIC examiners to identify and analyze such transactions. The regulation seeks to achieve these goals by prescribing review, approval, and recordkeeping requirements with respect to certain transactions which are defined in the regulation as "insider transactions."

In addition, the regulation currently in effect states that, notwithstanding compliance with the prescribed review and approval requirements, the FDIC will take appropriate supervisory action (including, in an appropriate case, the institution of formal proceedings under section 8 of the Federal Deposit Insurance Act) against the bank, its officers, directors, or trustees if the FDIC determines that an insider transaction is indicative of unsafe or unsound practices. The regulation lists several factors which the FDIC will consider in determining the presence of unsafe or unsound banking practices involving insider transactions, but does not specifically describe the circumstances under which an insider transaction will be considered an unsafe or unsound banking practice.

Since the regulation took effect, questions have been raised from time to time as to the proper interpretation of various provisions and as to the FDIC enforcement policy with respect to those insider transactions that may involve abusive self-dealing. Accordingly, the FDIC has reviewed the regulation in light of the purposes it was designed to serve and now proposes to amend the regulation to better achieve those purposes and to promote greater clarity and understanding.

Numerous provisions of the regulation have been rewritten for purposes of clarity and readability, without affecting the substance of the regulation. However, a number of substantive amendments are also proposed, the most significant of which are described as follows:

1. A new definition would be added, defining the term "preferential" as it is applied to insider transactions. Under this definition, an insider transaction is preferential if, in light of all the circumstances, an insider or person related to an insider obtains a benefit or advantage which would not be afforded in a comparable arm's length transaction to a noninsider of comparable creditworthiness or otherwise similarly situated.

2. A new provision would be added to specify those circumstances under which the FDIC considers an insider transaction to be an unsafe or unsound banking practice. Under this provision, an insider transaction is an unsafe or unsound banking practice if the transaction is preferential and re-

sults in, or is likely to result in, loan loss, excessive cost, undue risk, or other economic detriment to the bank. The regulation would also make clear that the FDIC will take appropriate supervisory action against a bank whose insider transactions are found to be unsafe or unsound. Depending on the nature of the transaction and the circumstances involved, such supervisory action may range from informal efforts to obtain voluntary correction to, in an appropriate case, institution of formal proceedings under section 8 of the Federal Deposit Insurance Act. Technical compliance with the regulation's review, approval, and recordkeeping requirements would not be considered justification for an insider transaction which is an unsafe or unsound banking practice.

Thus, in order to dispel any confusion that may exist with respect to the current regulation, the proposed amendments would make it clear that the FDIC will not tolerate any insider transaction that affords preferential treatment to an insider or a person related to an insider and results in, or is likely to result in, economic detriment to the bank. Insured State nonmember banks can and should expect such transactions, should they occur, to be the subject of examiner comment and FDIC supervisory action.

With reference to the factors enumerated in subsection (g) of the current regulation which the FDIC will consider in determining the presence of unsafe or unsound banking practices involving insider transactions, two of those factors have been deleted in the proposed amendments in favor of a revised single standard. It should be emphasized, however, that the revised single standard is not intended to be narrower in scope than the three factors enumerated in present subsection (g).

It should also be emphasized that any insider transaction that meets the stated criteria will be considered an unsafe or unsound banking practice, regardless of the dollar amount of the transaction. The inclusion in the regulation of a schedule of minimum dollar amounts which "trigger" the regulation's review, approval, and recordkeeping requirements in no way limits the FDIC's ability to take supervisory action against a bank that enters into an insider transaction which is an unsafe or unsound banking practice, even if the dollar amount of the transaction falls below the applicable "triggering amount."

3. A new provision would be added relating specifically to correspondent accounts. It would require each insider to report in writing to the bank's board of directors all loans or other extensions of credit that are both: (a) Made by a financial institution with which the bank maintains a correspondent account, and (b) made for the purpose of enabling the insider, the insider's spouse, or any relative of the insider who lives in the insider's home to purchase, carry, or own a beneficial interest in securities issued by the bank, its holding company, or any other insured bank or holding company of an insured bank. The report would state the terms and conditions of the loan, including certain specified information, and would be kept with the bank's insider transaction records.

The bank's board of directors would be required to review at least annually, all of the bank's correspondent accounts with other financial institutions. The purpose of the review would be to ensure that such accounts are fair to and in the best interests of the bank. In making the review, the board would be required to consider all relevant facts, including the bank stock loans reported by insiders.

In addition to this specific provision, any deposit placed by a bank in another financial institution to compensate that institution for making a loan to an insider of the bank would be considered an "insider transaction" under amended paragraph (a)(8)(iii) and would therefore be subject to the regulation's review, approval, and recordkeeping requirements.

4. The definition of "person related to an insider" would be expanded to include certain relatives of an insider not covered by the present regulation (e.g., brothers, sisters, spouse's parents).

5. The definition of "business transactions" would be substantially revised. Instead of listing certain examples of such transactions, as the present regulation does, the revised regulation would simply define "business transaction" to mean "any arrangement, activity, or transaction," except those specifically excluded. The "exceptions" relating to trust activities and activities undertaken in the capacity of securities transfer agent or municipal securities dealer would be deleted. In addition, the exception for "credit card transactions" would be restricted to those which are "pursuant to standard credit provisions applied and enforced equally as to all credit card customers of the bank," and the exception for "deposit account activities" would be restricted to those "involving the bank as depository (other than payment by the bank of interest on time deposits of $100,000 or more)."

6. The definition of "series of related business transactions," currently in a footnote, would be placed in the main text.

7. In the definition of "insider transaction," the phrase "inures to the tangible economic benefit of" would be changed to "results in economic benefit to." It is believed that the new language would be more easily understood.

8. The bank's board of directors would be required to review and approve an insider transaction prior to consummation of the transaction, unless prior review and approval are clearly impractical, in which case review and approval would be required to occur no later than the next regularly scheduled board meeting following consummation of the transaction. In those cases in which approval is given following consummation of the transaction, the board's minutes would be required to include a statement of the reasons why the board found prior review and approval to be clearly impractical.

9. The following additional amendments to the regulation's review and approval requirements are proposed: (a) The phrase "[an insider transaction] involving assets or services having a fair market value amounting to more than" would be replaced by the phrase "[an insider transaction that] involves an amount greater than," along with a clarifying footnote; (b) the minutes of the meeting at which approval is given would be required to expressly indicate that the board recognized the transaction to be an insider transaction; and (c) review and approval of a "series of related business transaction" would be required to occur at least annually.

10. The regulation's recordkeeping provisions would be amended in the following respects: (a) Each file containing documents or information relating to an insider transaction would have to be conspicuously marked as such and would have to be cross-referenced to the minutes of the meeting at which the board approved the transaction; and (b) each such file would be required to include sufficient information and documentation to enable the board to make an informed decision as to approval or disapproval, including such information and documentation as the bank would require of a noninsider in a comparable transaction.

11. The existing provision relating to the discovery by the bank of an insider relationship after entering into a transaction requiring review and approval would be deleted.

Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend 12 CFR Part 337 by revising § 337.3 to read as follows:

§ 337.3 Insider transactions.

(a) *Definitions.*—(1) *Bank.* The term "bank" means an insured State nonmember commercial or mutual savings bank and any majority-owned subsidiary of such bank.

(2) *Person.* The term "person" means a corporation, partnership, association, or other business entity; a trust; or a natural person.

(3) *Control.* The term "control" (including the terms "controlling," "con-

trolled by," and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities, by proxy to vote such securities, by contract, or otherwise.

(4) *Insider.* The term "insider" means:

(i) Any director or trustee of a bank;

(ii) Any officer or employee of a bank who participates or has authority to participate in major policymaking functions of the bank;

(iii) Any person who has direct or indirect control over the voting rights of ten percent or more of the shares of any class of voting stock of a bank; or

(iv) Any person who otherwise controls a bank.

(5) *Person related to an insider.* The term "person related to an insider" means:

(i) A corporation, partnership, association, other business entity, or trust which controls, is controlled by, or is under common control with an insider; and

(ii) A natural person who is:

(A) An insider's spouse (except where legally separated);

(B) A parent or stepparent of an insider's spouse;

(C) An insider's parent, stepparent, child, stepchild, brother, stepbrother, half-brother, sister, stepsister, or half-sister; or

(D) Any other relative of an insider who lives in the insider's home.

(6) *Business transaction.* The term "business transaction" means any arrangement, activity, or transaction, except: charitable transactions; deposit account activities involving the bank as depository (other than payment by the bank of interest on time deposits of $100,000 or more); safekeeping transactions; and credit card transactions pursuant to standard credit provisions applied and enforced equally as to all credit card customers of the bank.

(7) *Series of related business transactions.* The phrase "series of related business transactions" includes business transactions which are in substance part of an integrated business arrangement or relationship, such as borrowings under a single line of credit, law firm billings, or recurring transactions of a similar nature within a holding company system.

(8) *Insider transaction.* The term "insider transaction" means any business transaction or series of related business transactions between a bank and:

(i) An insider of the bank;

(ii) A person related to an insider of the bank;

(iii) Any other person where the transaction results in economic benefit to an insider of the bank or a person related to an insider of the bank; or

(iv) Any other person where the transaction is engaged in or made in contemplation of such person becoming an insider of the bank.

(9) *Preferential.* An insider transaction is "preferential" if, in light of all the circumstances, an insider or person related to an insider obtains a benefit or advantage which would not be afforded in a comparable arm's length transaction to a noninsider of comparable creditworthiness or otherwise similarly situated.

(b) *Unsafe or unsound banking practices involving insider transactions; supervisory action.* (1) An insider transaction is an unsafe or unsound banking practice if the transaction is preferential and results in, or is likely to result in, loan loss, excessive cost, undue risk, or other economic detriment to the bank.

(2) The Corporation will take appropriate supervisory action against a bank, its officers, or its directors or trustees when the Corporation determines that an insider transaction, alone or when aggregated with other insider transactions, is an unsafe or unsound banking practice. Such supervisory action may consist of informal efforts to obtain voluntary correction of the unsafe or unsound banking practice or, in an appropriate case, may involve institution of formal proceedings under section 8 of the Federal Deposit Insurance Act. Compliance with the review, approval, and recordkeeping requirements of this section will not relieve the officers, directors, or trustees of a bank of their duties to conduct the bank's operations in a safe and sound manner, and will not be considered justification for an insider transaction which is found to be an unsafe or unsound banking practice.

(c) *Review and approval of certain insider transactions.* (1) A bank's board of directors or board of trustees shall specifically review and approve each insider transaction that, either alone or when aggregated in accordance with paragraph (d) of this section, involves an amount[1] greater than:

(i) $20,000, if the bank has not more than $100,000,000 in total assets;

(ii) $50,000, if the bank has more than $100,000,000 but not more than $500,000,000 in total assets; or

(iii) $100,000, if the bank has more than $500,000,000 in total assets.

Such review and approval shall occur prior to consummation of the transaction, unless prior review and approval are clearly impractical, in which case review and approval shall occur no later than the next regularly scheduled meeting of the bank's board of directors or board of trustees following consummation of the transaction.

(2) When an insider transaction is part of a series of related business transactions involving the same insider, approval of each separate transaction is not required so long as the bank's board of directors or board of trustees has reviewed and approved the entire series of related transactions and the terms and conditions under which such transactions may take place. Any series of related business transactions shall be reviewed and aproved at least annually.

(3) The minutes of the meeting at which approval is given shall (i) indicate the nature of the transaction and the parties thereto, (ii) expressly indicate that the board recognized the transaction to be an insider transaction, that review was undertaken, and that the transaction was approved or disapproved, and (iii) state the names of each director or trustee who voted to approve or disapprove the transaction or abstained from voting. In the case of negative votes, a brief statement of each dissenting director's or trustee's reason for voting to disapprove the proposed insider transaction shall be included in the minutes if its inclusion is requested by the dissenting director or trustee. In those cases in which approval is given following consummation of the transaction, the minutes shall also include a statement of the reasons why the board found prior review and approval to be clearly impractical.

(d) *Aggregation of insider transactions.* For purposes of subsection (c) of this section, any loan or extension of credit involving an insider shall be aggregated with the outstanding balances of all other loans or extensions of credit involving that insider. A loan or extension of credit involves a specific insider when the loan or extension of credit is made to that insider, to a person related to that insider, or to any other person where the loan or extension of credit results in economic benefit to that insider or a person related to that insider.

(e) *Records and information pertaining to insider transactions.* (1) Each bank shall maintain a record of, and information pertaining to, insider transactions requiring review and approval under this section. To facilitate examiner review, such records and information shall (i) be readily accessible to examiners, (ii) be kept in a

[1] If the transaction involves a disbursement of funds or an obligation to disburse funds by the bank, then the "amount" referred to in the text is the amount disbursed or the maximum amount which the bank is obligated to disburse. If the transaction involves payment by the bank of interest on time deposits of $100,000 or more, then the "amount" referred to in the text is the principal amount of the time deposit.

manner and form that will enable examiners to readily identify all insider transactions which require review and approval under this section, and (iii) be cross-referenced to the minutes of the board of directors' or board of trustees' meeting at which the insider transaction was approved. Each file containing documents or other information relating to an insider transaction shall be clearly and conspicuously marked as such.

(2) The records and information relating to insider transactions shall describe fully and accurately all insider transactions requiring review and approval under this section, and shall include all documents and other material relied upon by the board in approving each such transaction, including the name of the insider, the insider's position or relationship that causes him to be considered an insider, the date on which the transaction was approved by the board, the type of insider transaction, and the relevant terms of the transaction. The file relating to each such transaction shall include sufficient information and documentation to enable the board to make an informed decision as to approval or disapproval, including such information and documentation as the bank would require of a noninsider in a comparable transaction.

(f) *Disclosure of proposed insider transactions.* Any insider having knowledge of an insider transaction or a proposed insider transaction involving that insider or a person related to that insider shall give timely notice of such transaction to the bank's board of directors or board of trustees.

(g) *Correspondent accounts.*[2] (1) A bank's board of directors or board of trustees shall periodically review (at least annually) all of the bank's correspondent accounts with other financial institutions to ensure that such accounts are fair to and in the best interests of the bank. In making the review, the board shall consider all relevant facts and circumstances, including the loans and other extensions of credit reported under paragraph (2) of this subsection (g). The board's minutes shall recite the details and findings of the review.

(2) Each insider shall report in writing to the board of directors or board of trustees of the bank all loans or other extensions of credit that are both (i) made by a financial institution with which the bank maintains a correspondent account and (ii) made for the purpose of enabling the insider, the insider's spouse, or any relative of the insider who lives in the insider's home to purchase, carry, or own a beneficial interest in securities issued by the bank, its holding company, or any other insured bank or holding company of an insured bank.[3] The report shall be kept with the records maintained by the bank with respect to insider transactions and shall state the terms and conditions of each loan or extension of credit, including the following information:

(A) A brief description of the loan or other extension of credit;

(B) The parties thereto or affected thereby;

(C) The identity and relation to the bank of the insider involved; and

(D) The principal terms and conditions of the loan or other extension of credit (in the case of a loan, these would include the principal amount; term or maturity; interest rate; description and valuation of collateral pledged; purpose of loan; repayment schedule; and source of repayment).

(Sec. 2[8], Pub L. 797, 64 Stat. 879, as amended, Pub. L. 89-695, 80 Stat. 1046 (12 U.S.C. 1818); sec 2[9], Pub. L. 797, 64 Stat. 881-82 (12 U.S.C. 1819).)

By order of the Board of Directors dated January 25, 1978.

For the Federal Deposit Insurance Corporation.

ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-2589 Filed 1-30-78; 8:45 am]

[2] Compliance with the provisions of this subsection (g), or of § 337.3 generally, should not be construed to affect in any manner the liability of any person under 18 U.S.C. 656 for willful misapplication of bank funds.

[3] As used in this sentence, the term "insured bank" includes any national bank, State member bank, or insured State nonmember bank.

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 704]

CALCULATION OF DEPRECIATION DEDUCTION FOR REFUNDS UNDER FULL WARRANTIES ON CONSUMER PRODUCTS

Termination of Rulemaking Proceeding and Statement of Reason

AGENCY: Federal Trade Commission.

ACTION: Termination of Rulemaking Proceeding.

SUMMARY: On June 1, 1976, the Commission published for comment a proposed Rule implementing section 101(12) of Title 1 of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. 93-637 (15 U.S.C. 2301 et seq.) ("the Act"). The proposed Rule would permit a warrantor of a consumer product with a full warranty to make a deduction for depreciation based on actual use when fulfilling its duty to refund the actual purchase price under the Act. The Commission has analyzed the comments received and has concluded that promulgation of a final Rule would not be in the public interest. The Commission has also decided that its action with respect to the proposed Rule does not foreclose the opportunity for future rulemaking to implement section 101(12) of the Act. The Commission has therefore determined that further proceedings may be initiated pursuant to petition filed by any interested person or group as provided by section 1.25 of the Commission's Rules of Practice and Procedure.

DATES: Effective immediately.

ADDRESSES: Petitions for rulemaking should be addressed to: Secretary, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Deirdre Shanahan, Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

HISTORY OF THE PROCEEDING

Pursuant to sections 101(12) and 109 of the Act, the Commission conducted a proceeding for the promulgation of a Rule permitting a warrantor of a consumer product with a full warranty to make a deduction for depreciation based on actual use when fulfilling its duty to refund the actual purchase price of a consumer product under Section 104(a) of the Act.

Notice of this proceeding, including a proposed Rule, was published in the FEDERAL REGISTER on June 1, 1976 (41 FR 22099). The Notice urged all interested parties to express their approval or disapproval of the proposed Rule, or to recommend revisions thereof and to give a full statement of their views, supplemented by all appropriate documentation. In addition, the Notice solicited comment on specific issues or provisions of the proposed Rule which were deemed important in the establishment or operation of a mechanism for calculating a depreciation deduction. The documents supporting the proposed Rule, and a report of the Commission staff discussing the proposed Rule and the supporting documentation were placed on the public record and made available for examination and copying.

Interested parties were afforded the opportunity to participate in the proceeding through the submission of written data, views, and arguments, and to appear and express their views orally at a public hearing scheduled to commence on August 9, 1976 in Washington, D.C. A period of 60 days was allowed for submission of written comments on the proposed Rule. The public hearing was cancelled due to

the lack of requests to make an oral presentation. Notice of the cancellation was published in the FEDERAL REGISTER on August 6, 1976 (41 FR 32911). The public record remained open for 30 days following the cancellation of the public hearing for receipt of any other written data, views, or arguments.

Upon careful analysis and review of the written comments, the Commission has concluded that promulgation of a final Rule would not be in the public interest. The proposed Rule, the record, and the rationale for termination of this proceeding are discussed below. The termination of this rulemaking proceeding is within the Commission's administrative discretion and is supported by substantial evidence on the record of this proceeding.

STATEMENT OF REASON FOR TERMINATION OF RULEMAKING PROCEEDING

I. BACKGROUND OF THE PROPOSED RULE

Section 104 of the Act establishes Federal minimum standards for full warranties. Section 104(a) sets forth the minimum duties that a warrantor must assume under a full warranty on a consumer product. These duties include, inter alia, the following:

(1) Such warrantor must as a minimum remedy such consumer product within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with such written warranty; * * *. (4) If the product (or a component part thereof) contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions in such product, such warrantor must permit the consumer to elect either a refund for, or replacement without charge of, such product or part (as the case may be).

The term "remedy" as defined in section 101 (10) allows the warrantor to elect repair, replacement, or refund "except that the warrantor may not elect refund unless: (i) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made or (ii) the consumer is willing to accept such refund." Thus, a duty to refund may arise in three situations: the two specified in the definition of "remedy" and, under section 104(a) (4), where the warrantor is unable to remedy defects or malfunctions in a product after a reasonable number of attempts.

The term "refund" is defined in section 101(12) as "refunding the actual purchase price (less reasonable depreciation based on actual use where permitted by rules of the Commission)." This provision and section 109 of the Act provided the authority for promulgating the proposed Trade Regulation Rule.

The purpose of the proposed Rule is illuminated by the legislative history of section 101(12). As indicated in the Conference Report,[1] the Senate bill required a warrantor to refund in full the actual purchase price of a consumer product. The House amendment inserted a substitute text which allowed a warrantor to make a deduction from the actual purchase price for depreciation based on actual use.[2] The substitute agreed to in conference modified the House amendment and provided that a warrantor may make a deduction for reasonable depreciation based on actual use, where that deduction is permitted by rules of the Federal Trade Commission.[3] The intent behind the conference substitute was to eliminate any possible inequities resulting from the refund requirement under Section 104(a) of the Act based on the rationale that a full refund might constitute unjust enrichment of a consumer where the product has performed as warranted prior to refund.[4]

The Commission stated its intent to promulgate a Rule permitting a deduction for depreciation in its policy statement regarding the implementation and enforcement of the Act.[5]

In addition, the Commission considers rulemaking under Section 101(12) regarding depreciation for purposes of refunds under the Act a priority matter. Although this rule is not mandatory, the Commission had directed the staff to prepare such a rule for publication at the earliest possible date.[6]

II. GENERAL BASIS FOR THE PROPOSED RULE

Aside from the statutory language contained in section 101(12) of the Act, Congress enunciated no standards or requirements for the form and conduct of the proposed Rule.[7] The statutory language imposes two contraints on the proposed Rule. The deduction permitted by the Act must represent depreciation which is "reasonable" and "based on actual use". The implications for the proposed Rule are presented below.

(A) Depreciation

Four basic meanings are attributed to the term "depreciation".[8] The first meaning, "impaired serviceableness", is the engineering concept of depreciation and refers to the value of an asset measured by its functional efficiency. The second, "difference in value between an existing old asset and a hypothetical new asset", represents the appraisal concept of depreciation and reflects the value inferiority at the date of the appraisal of one asset, the existing old one being appraised, to another asset, a hypothetical new one used as the basis of valuation. The third, "decrease in value", is commonly referred to as the economic concept of depreciation and is based on the computation of the value of an asset at two different dates. The fourth, "amortized cost", is the accounting concept of depreciation and constitutes a process of allocation rather than valuation; the cost or other basis of the asset is allocated over its estimated useful life in proportion to the expiration of benefits derived from its use.

Each of these four concepts was evaluated in terms of its suitability as the basis of the proposed Rule.[9] The first three concepts listed above were rejected on two grounds. First, each of these concepts failed to comply with the statutory language of section 101(12), "reasonable depreciation based on actual use".[10] Additionally, use of the engineering concept would be incompatible with the purpose of refund, a remedy for a defective consumer product, since the depreciation deduction would represent the decrease in value resulting from the impaired serviceableness. Second, none of these concepts constituted a viable method of computing depreciation for the purposes of the proposed Rule. The unavailability of satisfactory sources of current market value data necessary to calculate economic depreciation[11] and the complex and subjective valuations entailed in determining appraisal and engineering depreciation[12] negated the possibility of adopting these concepts as the basis of the proposed Rule.

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[1] R1-2, 4, Conference report on S. 356 (H. Rept. 93-1606) (herein-12058 (daily ed. Dec. 16, 1974). [Note: References to the public record of this proceeding, FTC File 215-57, are hereinafter designated by the prefix "R." R1-2, 4, and similar designations in this statement refer to the volume number (1-2) and document number (4).]

[2] Section 101(7) of the House amendments to the bill defines the term, refund, as "refunding the actual purchase price (less depreciation based on actual use)." See R1-2, 5, 120 Cong. Rec. H9409 (daily ed.) Sept. 19, 1974.

[3] R1-2, 4, Section 101(12), conference report, H12052.

[4] R1-2, 6, 120 Cong. Rec. H12348 (daily ed.) Dec. 19, 1974.

[5] R1-2, 7, "Consumer Product Warranties Statement of Implementation and Enforcement Policy" 40 FR 25721 (June 18, 1975).

[6] Id., at 25724.

[7] The House amendment allowing a deduction for depreciation was based on the substitute text of H.R. 7917. However, the legislative history of this bill sheds no light on section 101(12).

[8] R1-2, 84, E. Grant and P. Norton Jr., Depreciation, at 11-14 (1949) (hereinafter referred to as "Grant and Norton").

[9] See R1-2, 2, staff report, at 7-17.

[10] See id., at 9-14.

[11] See id., at 14-17.

[12] See id., at 9-12.

The fourth concept, accounting depreciation, however, satisfied both criteria.[13] This concept complied with the statutory language of Section 101(12) insofar as it would be possible to apportion the actual purchase price to the period during which the product performed as warranted and thereby determine the value of the use derived from the product prior to refund. In addition, computation of depreciation under this concept would be feasible. Depreciation is determined by two factors, the method of allocation and useful life.[14] Computation of depreciation requires only a selection of one of the methods of allocation recognized in the accounting field and a "reasonably accurate estimate"[15] of the useful life. For these reasons, the accounting concept was adopted as the basis of the proposed Rule.

(B) Method of Allocation

The formulation of a proposed Rule based on an accounting concept of depreciation requires a determination of the method of allocation to be employed in computing the depreciation charge. The most commonly used depreciation methods are grouped into two main categories: depreciation as a function of use and depreciation as a function of time.

Depreciation as a function of use allocates the cost of the asset in proportion to its actual use. Although this method is consistent with the purposes of the Rule, practical considerations militated against its adoption. Under this method, the life of an asset is estimated in terms of hours of use, or in the case of transportation equipment, miles of use. However, since consumer products other than automobiles are not marketed with a device which will measure the amount of use,[16] there would be no reliable means of estimating either the useful life or actual use of the product. The selection of the method of allocation was therefore restricted to the alternatives under the second category, depreciation as a function of time.

The methods of calculating depreciation as a function of time are subdivided into the straight-line method and accelerated methods.[17] The basic difference between these two methods is that under straight-line, the charge for depreciation is the same in the first years of the useful life of an asset as in the last years. Under accelerated methods, the charges for depreciation decrease over the useful life.

These two methods were evaluated from the standpoint of both theory and industry practice.[18] The straight-line method was selected for two reasons. First, under accounting theory, use of an accelerated method is justified on the grounds that the straight-line method does not compensate for the decreased efficiency and increased maintenance costs in the latter years of the product's life[19] and assumes that the process of physical deterioration occurs uniformly over time.[20] However, use of an accelerated method can be equally arbitrary since the service value of a product does not necessarily decline in the ratio assumed by such method.[21] Further, in the absence of concrete information on the probable rate of actual depreciation in the future, the straight-line method has the advantage of simplicity.[22] Second, selection of the straight-line method has been widely used over a considerable period of years for income tax and accounting purposes by the business community.[23] Warrantors, therefore, have had the benefit of long-term experience with this method. More importantly, the straight-line method is currently employed by the retail sector in calculating refunds for products that cannot be repaired or serviced[24] and in computing the ownership charge under pro rata warranties.[25] Further, guidelines on property depreciation used by the insurance industry and others in connection with casualty/loss adjustments are based on the straight-line method,[26] indicating that this method is appropriate for the majority of consumer products.

In the absence of any theoretical justification for an accelerated method, therefore, both industry practice and ease of calculation furnished compelling reasons for the selection of the straight-line method.

(C) Useful Life

Under the accounting concept, the integrity of the depreciation charge is dependent on a reasonably accurate estimate of useful life.[27] The possibility of specifying in the proposed Rule the useful life estimates which would be used in calculating the deduction for depreciation was explored. This approach was rejected for two reasons: (1) available useful life figures are not suitable for our purposes; (2) certain policy considerations suggest that the warrantor should be allowed to prescribe the useful life of consumer products.

1. *Possible sources of useful life figures.* In computing depreciation for accounting purposes, most firms use the lives designated by the Internal Revenue Service.[28] These lives presumably reflect the average life of products in commercial use.[29] The statutory language, "depreciation based on actual use", refers to consumer use. Since a product in consumer use would normally have a longer useful life than one in commercial use,[30] Internal Revenue Service's lives would not be suitable as useful life figures for the proposed Rule. Inquiries to possible sources of information on the useful life of consumer products[31] disclosed that there is little data on the estimated useful life of products in consumer use. Manufacturers were not a fruitful source of useful life figures.

Aside from a few isolated market surveys,[32] manufacturers generally do not collect product information beyond the warranty period.[33] Although life testing of consumer products is conducted, there is no satisfactory technique for translating the findings from such studies into estimates of useful life under conditions

[13] See id., at 17-18.

[14] See id., note 38, at 16.

[15] R1-2, 83, L. Bernstein, Understanding corporate reports: a guide to financial statement analysis (hereinafter "Bernstein"), at 195 (1974). See also R1-2, 84, Grant and Norton, at 88-89 ("best possible estimate").

[16] R1-2, 35 telephone interview with Eric Vandelund, Special Assistant to the Director of the Center for Product Technology, National Bureau of Standards, U.S. Dept. of Commerce, Gaithersburg, Md. See also R1-2, 2, staff report, note 40, at 18.

[17] See R1-2, 82, Davidson, at 18-11.

[18] See R1-2, 2, staff report, at 20-22.

[19] This argument has greater relevancy to depreciation for tax purposes where the taxpayer is recovering his/her cost in the property. This would not be the case where a consumer purchases a product for personal, family or household use.

[20] R1-2, 83, Bernstein, at 196-197.

[21] R1-2, 12, interview with David Painter, Accountant, Bureau of Economics, Federal Trade Commission, Washington, D.C.

[22] R1-2, Bernstein, at 196.

[23] R1-2, 85, J. Chommie, Federal Income Taxation, at 179 (1973). See also R1-2, 89, Grant and Norton, at 87, 91.

[24] R1-2, 40 telephone interview with R. E. Cofran, chief, product servicing and quality control division, Sears, Roebuck and Co., Chicago, Ill.

[25] Id.

[26] See R1-2, 2, staff report, at 16-17, 24.

[27] See note 15 supra.

[28] R1-2, 82, Davidson, Ch. 18, at 18-5 through 18-16.

[29] See R1-2, 2, staff report, note 52, at 23.

[30] R1-2, 28, telephone interview with marilyn Ruffin, Home Economist, Consumer Food and Economic Research Institute, Agricultural Research Service, U.S. Department of Agriculture, Rockville, Md. R1-2, 34, telephone interview with Sheldon Lee, manager of marketing planning, Whirlpool Corp., Benton Harbon, Mich.

[31] See R1-2, 2, staff report, note 54, at 23.

[32] See R1-2, 23, telephone interview with J.B. DeWolf, section chief, Charles Stark Draper Laboratory, Inc., Cambridge, Mass. and discussion of Whirlpool Corp., study in the staff report, R1-2, 2 at 28-29.

[33] R1-2, 23, J. B. DeWolf.

of consumer use.[34] The lack of data on the useful life of products may be attributable to the fact that manufacturers are reluctant to gather information on the useful lives of their products due to the potential risk of misinterpretation by consumers. The manufacturers' concern is that a useful life figure be misconstrued as a warranty.[35]

The estimates of useful life which were obtained were derived from the following sources: the insurance industry, Massachusetts Institute of Technology, Whirlpool Corporation, and the Federal Government, including the Department of Transportation, the Department of Agriculture, and the General Services Administration. The basis of the estimates derived from each source was analyzed to determine whether such estimates would be suitable as mandatory useful life figures for the proposed Rule.[36] All of the estimates were found to be unacceptable for two reasons. First, with the exception of the estimates obtained from the Department of Agriculture, the validity of these estimates was susceptible to challenge due to deficiencies in the methodology employed to measure useful life.[37] Second, none of the estimates were based on a definition of useful life which was appropriate and meaningful for the purposes of the proposed Rule.[38] In most instances, adoption of an estimate based on these definitions could have the inequitable effect of limiting the duty to refund to a period of time shorter than the duration of the warranty. These two limitations therefore negated the utility of the available useful life estimates as mandatory useful life figures to be used in calculating the deduction for depreciation under the proposed Rule.

2. *Policy considerations.* Since the rationale underlying section 101(12) is that a refund requirement which does not allow a deduction for depreciation may be inequitable in many circumstances, the Commission initially determined that a comprehensive rule which permits warrantors of all consumer products to make such a deduction would be the fairest approach for implementing the Act. However, a comprehensive rule is feasible at present only if the warrantor rather than the Commission establishes the useful life figure upon which the deduction would be calculated.

Assuming arguendo that the estimates set forth in the preceding section would be suitable for incorporation into the proposed Rule, the sources of these estimates would furnish useful life figures for only a portion of the consumer products covered by the proposed Rule. The cost of developing useful life figures negates the possibility of the Commission expending its limited resources to develop useful life figures.[39] Although use of an offeror procedure[40] would eliminate the problem of cost to the Commission, this would be a lengthy process. In view of the Congressional directive to issue a rule "in the near future", this was not a viable alternative. A comprehensive rule therefore dictated the establishment of useful life figures by the warrantor.

(D) *Useful Life Figure and Substantiation Requirement*

The Commission determined that a Rule which would allow a warrantor to adopt a useful life figure which lacks a reasonable basis would be unfair to both consumers and competitors. In the absence of a substantiation requirement, a warrantor could minimize its refund obligation by adopting a figure which is less than the useful life of the product.[41] The impact on consumers would be to deprive them of their full rights under the warranty. In addition, competition would be adversely affected since the resultant savings would give such warrantor an unfair advantage over its competitors. Accordingly, a provision requiring the warrantor to have a reasonable basis for its useful life figure was needed to ensure the integrity of the depreciation deduction.

Under Commission law, the precise formulation of the reasonable basis standard is determined inter alia by "the type, and accessibility, of evidence adequate to form a reasonable basis."[42] In recognition of the fact there is little hard data on the useful lives of consumer products, the substantiation required by the proposed Rule was keyed to the evolving state of the art to avoid placing an unreasonable burden on the warrantor. Such a requirement would permit warrantors to adopt useful life figures which can be substantiated by presently available evidence.[43] It would also require the warrantor to upgrade substantiation as the state of the art of measuring useful life advances.

Regarding the useful life figure itself, the Commission determined that the proposed Rule should allow the warrantor to adopt any figure which is not less than the useful life of the product. The intent is to further alleviate any burden resulting from the substantiation requirement without compromising the integrity of the depreciation deduction. Since the purpose of the substantiation requirement is to preclude a warrantor from minimizing its refund obligation, any useful life figure which is not less than the useful life of the product would be adequate for the purposes of the Rule. The burden of substantiation would be substantially reduced by allowing a warrantor to adopt any useful life figure which is sufficiently high to ensure that it would not be less than the useful life of its product.

III. ANALYSIS OF THE PUBLIC RECORD

A. *Opposition to the Proposed Rule*

The Public Record of this proceeding[44] reflects substantial opposition to the proposed Rule. The majority of the comments were directed at the proposal as a whole, and expressed a general objection to the principle of allowing a deduction for depreciation. Specific comments in opposition to the proposed Rule focused on the method of calculating the deduction in particular, the provision relating to the determination of useful life figure. This section will discuss and evaluate the opposition to the proposed Rule.

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[34] See R1-2, 79, J. Pennock and C. Jaeger, "Estimating the Service Life of Household Goods by Agricultural methods" 52 *Amer. Stat. Assoc. J.* 175 (1957); R1-2, 87, Ruffin and Tippett, at 162-163.

[35] R1-2, 20, telephone interview with Norman Pugh, Government and technical liaison, product testing laboratory, Sears, Roebuck and Co., Chicago, Ill. R1-2, 37, telephone interview with Robert Lund, senior research associate, center for policy alternatives, Massachusetts Institute of Technology, Cambridge, Mass.

[36] See R1-2, 2, staff report at 25-34.

[37] See id., at 25, 28-32

[38] See id., at 27, 29-31, 33-34.

[39] The cost of the Department of Agriculture Study which established life estimates for only eight products was $100,000. See R1-2, 32, Marilyn Ruffin.

[40] Under an offeror procedure, outside parties would conduct such studies at their own expense.

[41] Under the proposed straight-line method of calculating depreciation, the amount of the deduction from the refund amount is inversely proportional to the useful life figure. As a result, the amount of the deduction increases as the useful life figure decreases.

[42] *Pfizer, Inc.*, 81 FTC 23, 64 (1972). Other considerations which would be relevant to the question of what constitutes a reasonable basis are: the type and specificity of the claim made; the type of product; the possible consequences of a false claim; and the degree of reliance by consumers on the claims.

[43] The sources of useful life figures which were discussed in § II(C)(1) above, were evaluated from the standpoint of adopting those estimates as mandatory useful life figures under the proposed Rule. However, the above evaluation is not intended to negate these sources as the type of evidence which could provide a reasonable basis for the useful life figure to the extent that the source is recognized as probative.

[44] As stated in the foregoing section entitled "History of the Proceeding", the public hearings on the proposed Rule were cancelled. The public record consists of written comments; the total by category is: Manufacturers-11, Retailers-4, Trade Associations-4, Government Agencies-6, Consumer Organizations-6, Consumers-163, and Miscellaneous-2.

1. *Opposition to a deduction for depreciation from the refund.* Substantial comment was received from consumers, consumer representatives, retailers, and a member of Congress urging the Commission not to promulgate a Rule which would allow a warrantor who offers a full warranty to make a deduction for depreciation from the refund amount. The comments reflect three basic arguments for prohibiting a deduction for depreciation.

The primary argument advanced by opponents disputes the underlying rationale of the proposed rule. The majority of consumers,[45] one retailer,[46] and the National Consumer Law Center (NCLC),[47] and others[48] argue that a full refund does not constitute unjust enrichment where the consumer has enjoyed the use of the product prior to refund. Two reasons were given in support of this argument. First, any use or enjoyment which the consumer derives from the product prior to the breach of warranty is offset by the subsequent inconveniences and frustrations suffered by the consumer in both coping with the defective product until a refund is deemed appropriate[49] and in enforcing the warranty.[50] Second, any financial gain to the consumer from using a product for which the purchase price is refunded is outweighed by the monetary losses which the consumer may sustain as a result of the breach of warranty; these include incidental damages,[51] consequential damages,[52] increased cost of purchasing a replacement,[53] and loss of investment income on the purchase money.[54] The consumer who purchases on credit incurs additional losses such as the nonrefundable portion of the finance charge and other charges, including credit insurance costs and the money lost when refunds of such charges are calculated by the Rule of 78's.[55] It is therefore asserted that the proposed depreciation would enhance the consumer's losses.[56]

Furthermore, several comments include a counterargument that the proposed depreciation deduction is inequitable and could, in fact, unjustly enrich the warrantor.[57] NCLC wrote:

> Now the Commission proposed to change law by allowing the warrantor who sold a defective product in breach of contract and has been able to use and invest the consumer's money at a profit to benefit from the transaction at the expense of the innocent consumer by failing to refund the full purchase price. Such a proposed financial award to the warrantor is in addition to the finance charge and other charges which the warrantor (or retailer) may claim he is entitled to retain inasmuch as his obligation is to refund only *the purchase price*, not the full transactional amount. See § 2301(12). It is also in addition to the consumer's incidental and consequential damages which the warrantor certainly will not pay for without litigation, a remote prospect.
>
> The warrantor, then, controls the process and the money at every step, is the party at fault, benefits financially from the consumer's inability and/or reluctance to pursue full monetary redress and from the use of the consumer's money, and, under the proposed rule, can be rewarded, by a depreciation deduction, for selling defective goods.[58]

Another argument propounded by individual consumers[59] and others[60] was that the proposed rule would render the designation misleading and will create confusion as to warranty rights. The comments[61] establish that consumers have developed an understanding that all warranties designated "full" connote a full refund, and that, as a result, a revision of the full warranty to permit an alternative of a depreciation deduction is inherently misleading.

A third argument which was raised by NCLC as an alternative reason for opposing a depreciation deduction was that the proposal is contradictory to existing law under the Uniform Commercial Code (UCC).[62] NCLC commented that the vast majority of cases under the UCC have allowed the buyer who rejects defective goods or revokes his acceptance a full recovery of the purchase price even though the consumer may have possessed and used the product for a significant time. In addition, the courts have frequently awarded significant additional damages, plus interest from the date of purchase. NCLC therefore argued that since state law is not preempted by the Act and affords greater protection to the buyer in terms of a remedy, "the net effect of the deduction would be to deter consumers from pursuing their rights under the Act, clearly contrary to the Act's purpose of providing more workable remedies for warranty problems."[63]

Although the foregoing arguments are persuasive, none would justify a decision not to promulgate a Rule implementing Section 101(12). The first argument does not absolutely refute the premise of the depreciation deduction but merely demonstrates that the instances in which a full refund would constitute unjust enrichment are limited. The second argument appears to be mooted by the Congressional intent to redefine the meaning of "full warranty" to allow warrantors to make depreciation deductions. Finally, the validity of the third argument will be limited to those situations in which rejection or revocation of acceptance, as provided in the UCC, is appropriate and the monetary amount involved justifies legal action.

2. *Opposition Based on Useful Life Figure Requirement.* The comments indicate that the most problematic provision of the proposed Rule would be the determination of the useful life figure upon which the deduction for depreciation will be calculated. Under Section 704.3(b), a warrantor would be required to adopt a useful life figure which is no less than the useful life of its product and to substantiate such figure in accordance with the requirements set forth in subparagraph (2).

Comments submitted by several manufacturers of such consumer products as automobiles, furniture, carpets,

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[45] See R1-7, consumer comments.

[46] R1-5, 3, John Ames, Jr., Rolfe Brokerage Co., Inc., Milwaukee, Wis. (hereinafter "Rolfe Brokerage Co.,").

[47] R1-8, 6, Richard Alpert, National Consumer Law Center, Inc., Boston, Mass. (hereinafter "NCLC").

[48] See R1-11, 1 (Fairfax Leary, Jr. and Jerrold Frankel, Temple University), School of Law, Philadelphia, Pa. (hereinafter "Temple") and R1-8, 1, Douglas Schactman, Community Legal Aid Society, Inc., Wilmington, Del. (hereinafter "Schactman").

[49] Examples cited in the comments submitted by individual consumers include inter alia time spent in securing repair (see, e.g., R1-7, 39, R1-7, 86, and R1-7, 121), deprivation of the use of the product during periods of malfunction and repair (see, e.g., R1-7, 19, R1-7, 123, R1-7, 143, and R1-7, 149) and inconvenience of using a substitute product (see, e.g., R1-7, 8, R1-7, 39). See also R1-8, 6, NCLC.

[50] See, e.g., R1-7, 25, R1-7, 8, and R1-7, 72, consumer letters. See also R1-8, 6, NCLC.

[51] Examples cited in the comments include inter alia the costs of securing substitute performance (see, e.g., R1-7, 16, consumer letter; R1-11, 1, Temple; R1-8, 6, NCLC), time lost from work to secure repairs (see, e.g., R1-7, 149 and R1-7, 116, consumer letters and R1-8, 6, NCLC) and costs incurred in enforcing the warranty (see, e.g., R1-7, 125, consumer letter).

[52] Examples which were cited in the comments include inter alia, clothes ruined by a defective clothes dryer (see R1-8, 6, NCLC), water damage to a house caused by a defective clothes washer (see R1-7, 123, consumer letter), and food ruined by malfunctioning freezer or refrigerator (see, e.g., R1-7, 16, consumer letter).

[53] See, e.g., R1-8, 6, NCLC; R1-8, 1, Schactman; R1-9, 3, Elinor Guggenheimer, Commissioner, Dept. of Consumer Affairs, New York, N.Y. (hereinafter "Guggenheimer"); R1-7, 163, consumer letter.

[54] See, e.g., R1-7, 125 and R1-76, 86, consumer letters and R1-8, 6, NCLC.

[55] R1-8, 6, NCLC; R1-8, 1, Schactman.

[56] R1-11, 1, Temple; R1-8, 6, NCLC.

[57] See, e.g., R1-7, 124, consumer letter.

[58] R1-8, 6.

[59] See, e.g. R1-7, 10, R1-7, 41 and R1-7, 80, consumer letters.

[60] R1-9, 5, Gary A. Meyers, Member of Congress, U.S. House of Representatives, Washington, D.C.; R1-9, 1, E. McGee, Jr., Asst. State Attorney, Ft. Lauderdale, Fla. (hereinafter "E. McGee").

[61] R1-5, 4, David W. Raymond, Sears, Roebuck and Co., Chicago, Ill. (hereinafter "Sears").

[62] One comment received from a private attorney also asserted that "there is a whole body of case law over hundreds of years that would reject the proposal on its face." R1-7, 108.

[63] R1-8, 6.

resilient flooring, home entertainment equipment, and garden tractors, and one trade association of automobile dealers evidenced strong opposition to this provision. Their basic position was that an objective and relevant calculation of the useful life of a consumer product is impossible since such variables as the type and amount of use,[64] nature and extent of care and maintenance,[65] replacement or reconditining of parts, components and systems,[66] geographic location,[67] and other factors[68] will inevitably affect the life of the product. Additionally, some manufacturers contended that the problem of establishing a useful life figure is further compounded by the nature of their products. In the case of such consumer products as carpets and furniture, it was asserted that the useful life would vary depending upon the product type or grade selected by the consumer.[69] Newly developed products were also cited as particularly problematic since the data necessary to determine a useful life figure would not be obtainable until the product is well established.[70] Manufacturers therefore argued that the useful life of their products was either "highly speculative"[71] or "unworkable and unrealistic and incapable of definition".[72]

The validity of industry's position is supported by a study conducted by the National Bureau of Standards. Stanley Warshaw, Director of Product Technology, submitted the following comment:

> At the present time some members of our staff are involved in a project to demonstrate the applicability of life cycle costing principles to consumer products. Necessarily, such a demonstration will at some time involve our researchers with the problem of ascertaining the useful life of the products under study. After a one-year study of the general subject, we are convinced of the serious difficulty of attaching a reliable quantitative estimate to this concept.[73]

[64] R1-4, 10, Neil Hitz, American Motors Corp., Southfield, Mich. (hereinafter "AMC"); R1-4, 3, Richard Lange, Mohasco Corp., Amsterdam, N.Y. (hereinafter, "Mohasco"); R1-6, 3, Lawrence Merthan, Carpet and Rug Institute, Washington, D.C. (hereinafter "CRI"); R1-4, 2, Lawrence Hodges, J. I. Case Co., Racine, Wis. (hereinafter "J. I. Case"); R1-6, 4, John Pohanka, National Automobile Dealers Assoc., McLean, Va. (hereinafter "NADA").

[65] R1-4, 3, Mohasco; R1-6, 3, CRI; R1-4, 10, AMC.

[66] R1-4, 10, AMC.

[67] R1-4, 10, AMC; R1-6, 3, CRI.

[68] See R1-6, 3, CRI.

[69] R1-4, 3, Mohasco and R1, 6, 3, CRI.

[70] R1-4, 10, AMC; R1-4, 9, Sherwin Greenbalt, Bose Corp., Framingham, Mass. (hereinafter "Bose").

[71] R1-4, 3, Mohasco. See also R1-6, 3 and R1-4, 10, CRI and AMC.

[72] See R1-4, 10, AMC.

[73] R1-9, Stanley I. Warshaw, Center for Consumer Product Technology, U.S. Dept. of Commerce, National Bureau of Standards, Washington, D.C.

The corollary argument advanced by industry in opposition to this provision was that the substantiation requirement would be either an impossible[74] or unreasonable burden. Mohasco commented that this provision was "unduly restrictive in its apparent requirement that substantiation for a 'useful life' estimate should be more stringent than would appear to be feasible for most consumer products" and that "the availability of a deduction for depreciation will be largely illusory except for a limited number of products for which acceptable data can be obtained."[75] Others such as the National Association of Manufacturers (NAM) and Bose emphasized the prohibitive cost and complexity of obtaining data which would provide substantiation for the useful life figure.[76]

In addition to industry's claims of undue burden, concurring comments were submitted on this issue from on authoritative nonindustry source. Members of the Center for Policy Alternatives at Massachusetts Institutes of Technology, (MIT)[77] a group which completed a study on consumer durable products involving the issue of useful life[78] and is currently conducting a study on warranties for the National Science Foundation, stated that this requirement "will impose undue and unreasonable costs" on warrantors and predicted that "the high costs of such studies will dissuade warrantors from offering long full warranties."[79]

Consumer organizations and other non-industry representatives also opposed the useful life figure requirement on the ground that the proposed procedure for determining the useful life figure invites abuse at the consumer's expense by self-interested warrantors. The major criticism of the proposed procedure was the failure of the substantiation requirement to ensure reasonably accurate estimates of useful life. NCLC, Fairfax Leary of Temple University School of Law and others argued that the substantiation requirement provided too much latitude as to permissible sources of substantiation and therefore would not effectively operate to restrain warrantors from adopting advantageous useful life figures.[80]

[74] See R1-6, 3, CRI; R1-4, 2, J. I. Case.

[75] R1-4, 3.

[76] R1-6, 2, James P. Carty, National Association of Manufacturers, Washington, D.C.; R1-4, 9, Bose. See also R1-5, 5, Sears.

[77] R1-11, 2, Robert Lund, George Heaton, Steward Butler, Center for Policy Alternatives, Massachusetts Institute of Technology, Cambridge, Mass. (hereinafter "MIT").

[78] The study was discussed as a possible source of useful life figures in the Staff Report. See R1-2 at 28-30.

[79] R1-11, 2, MIT.

These comments manifest substantial opposition by both industry and non-industry representatives to the proposed useful life figure requirement and indicate that promulgation of a final Rule which calculates depreciation on this basis would be appropriate only with respect to those classes of consumer products for which reliable useful life figures either are presently or may in the future become available. Otherwise, until the state of the art of measuring useful life advances, a final Rule incorporating the proposed useful life figure requirements could not be justified in view of the burden of compliance.

B. Revisions and Alternatives to the Proposed Rule

Comments were submitted which recommended revisions of varying magnitude, including alternative methods of calculating the depreciation deduction. Most of the comments were in response to specific issues on which the Commission solicited comment in the notice of the proposal.[81] This section will discuss and evaluate those major revisions for which there is substantial support in the record.

1. *Alternative Methods of Measuring "reasonable depreciation based on actual use".* The Commission solicited commented on the issue of whether there were alternative methods of defining and measuring "reasonable depreciation based on actual use". In response, alternative methods were submitted by only four manufacturers. The proposals fall into two categories.

The first category would allow the warrantor to impose a "reasonable depreciation" charge. Mohasco recommended as an alternative to the proposed method a contractual usage charge, proffering a formula used in its industry, "$1 per square foot, pro rata, for each year of use after installation."[82] J. I. Case did not propose any specific method but rather recommended that warrantors be allowed "to continue their past practices of charging what they consider to be 'reasonable depreciation' when consumer products are recalled and a refund is made."[83] The major deficiency of both of these proposals is that neither conforms to the statutory requirement of "depreciation based on actual use." Further, an objective determination of whether the particular

[80] See R1-8, 6, NCLC; R1-11, 1, Temple; R1-8, 1, Schactman; R1-8, 5, Carol Foreman; Consumer Federation of America; Washington, D.C. (hereinafter "CFA").

[81] 41 Fed. Reg. 22,099, 22,100 (June 1, 1976).

[82] R1-4, 3.

[83] R1-4, 2.

method of depreciation chosen by a warrantor is "reasonable" would be impracticable, thereby nullifying any effective enforcement of such a provision.

The second category represents versions of accelerated depreciation. Corning submitted a scheduled based on the useful lives of its products which arranged the depreciation factor in a manner which was intended "to put the burden on the consumer to have the defects corrected in the first 3 months or get a full refund."[84] The AMC proposal was purported to reflect the "trend in retail prices of used automobiles."[85]

These problems also fail to comport with the statutory language. The alternative recommended by Corning reflects an arbitrary rate of depreciation which is not intended to have any relation to actual use. Likewise, the method suggested by AMC us unacceptable since usage is only one of the various factors which determines the retail prices of used automobiles.[86]

Additionally, comments were submitted which set forth cogent arguments against the adoption of an accelerated method in calculating the depreciation deduction. Both Fairfax Leary[87] and NCLC[88] asserted that use of an accelerated method of depreciation would be improper since it does not comport with "depreciation based on actual use" and, more importantly, would operate as a penalty against the consumer rather than prevent unjust enrichment. With respect to the penalty aspect of an accelerated method, NCLC noted that "[a]llowing an accelerated type of depreciation would shift improperly to the consumer the risks of an inefficient resale market, rapid deterioration of goods, and planned obsolescence."[89] Sears focused on the problem of implementation, contending that an accelerated method "would complicate the calculation and unduly burden the people on the salesfloor who would have to determine the amount of deduction."[90] These comments therefore indicate that a proposed Rule based on an accelerated depreciation would both contradict the statutory language of section 101(12) and the equitable principles underlying the depreciation deduction and would be impractical in application.

Accordingly, this proceeding failed to elicit an alternative method for calculating "reasonable depreciation based on actual use" which would be suitable for the purposes of the proposed Rule.

2. *Revision of useful life figure requirement.* Manufacturers and others who opposed the requirement that the depreciation deduction be calculated on the basis of a useful life figure adopted by the warrantor submitted suggested revisions.

Bose and CRI both recommended that the proposed depreciation formula be based on the warranty period in lieu of the useful life figure.[91] The duration of most full warranties currently being offered represents only a fraction of the apparent useful life of the consumer product.[92] Therefore, substituting the warranty period for the useful life figure would result in a severe rate of depreciation which is not correlated to actual use. This recommendation not only fails to comply with the statutory language but, more importantly, contradicts the purpose of the depreciation deduction, namely an equitable balancing of consumer and warrantor interests.

Sears suggested that the depreciation deduction be calculated on the basis of "any reasonable period of time (or use)".[93] Under Sears' proposal, the Commission would cite in the rule examples of sources which would provide reasonable figures. The Commission's staff report, however, establishes that the sources of such figures are available for only a fraction of the products covered by the proposed rule.[94] Consequently, in those numerous instances, in which the Commission could not cite a source of reasonable figures, such a provision would result in subjective determinations by warrantors.[95] Aside from the inherent problems of enforcement, the potential for abuse by warrantors, the basis of opposition by nonindustry representatives to the useful life figure requirement, would be enhanced.

Only two of the comments submitted by non-industry representatives recommended alternatives to the proposed useful life figure requirement.[96] Both proposals would shift the responsibility of establishing useful life figures from the warrantor to the Commission. The major deficiency of these proposals is that neither would provide a viable means of establishing a comprehensive rule. As discussed above, the Commission investigated the possibility of specifying useful life figures in the proposed rule and concluded that for many consumer products a source of such figures is not available.[97]

Although one proposal recommended a procedure for supplementing available figures which would allow warrantor to adopt a "reasonable" useful life figure subject to prior approval by the Commission, such procedure is impracticable. The record contains substantial evidence that an objective determination of useful life is either impossible or unduly burdensome in terms of cost. As a result, the basis for any "reasonable" useful life figure submitted would in most cases, amount to no more than mere speculation.[98] An evaluation of the "reasonableness" of the submissions by the Commission would therefore be impossible.

The foregiong discussion therefore demonstrates that none of the revisions suggested in the comments constitute viable alternatives to the proposed useful life figure requirement.

3. *Offset of incidental and consequential damages.* Comments were submitted by several consumers and others which recommended that the method for calculating the depreciation deduction be revised to allow an offset against the deduction for inci-

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[84] R1-4, 3, Robert Cleary, Corning Glass Works, Corning, N.Y.

[85] R1-4, 10.

[86] See discussion of economic depreciation in the staff report, R1-2, at 10-11.

[87] R1-11, 1, Temple.

[88] R1-8, 6.

[89] Id.

[90] R1-5, 4.

[91] R1-4, 9; R1-6, 3.

[92] See A. Consdorf, "The 'Lemon Law'—Right Name for the Wrong Reason?", Appliance Manufacturer, vol. 23, No. 10, at 46 (1975), which contains the results of a telephone survey conducted by Appliance Manufacturer on the type of warranties being offered by companies.

[93] R1-5, 4.

[94] See discussion at 17 above and discussion of sources of useful life figures in the staff report, R1-2, at 22-36.

[95] See the discussion of industry's position regarding a determination of the useful life of a consumer product, at 24-26 above.

[96] R1-11, 2, MIT and R1-11, 1, Temple. The comments submitted by CFA merely suggested a modification of the proposed rule to require submission of the substantiation prior to the use of the useful life figure. R1-8, 5. This approach is not only contrary to Commission procedure but also based on the erroneous assumption that disclosure of the useful life figure is required by the proposed Rule.

[97] See staff report, R1-2, at 35. Although the Internal Revenue Service was rejected as a source primarily on the ground that the estimates reflect the life of a product in commercial use which is normally shorter than that of a product in consumer use, examination of both new and old guidelines revealed that this source would furnish useful life figures for only a small portion of the consumer products covered by the proposed rule. See 1 CCH, Fed. Tax Guide §3013N, Asset Depreciation Range (1976); R1-2, 88, Department of the Treasury, Internal Revenue Service, Bulletin "F" (revised January 1942).

[98] See discussion of industry opposition to the useful life figure requirement at 25-26 above.

dental expenses and/or losses incurred as a result of the breach of warranty.[99]

The Commission has received substantial evidence that consumers may often incur considerable monetary losses as a result of a breach of warranty.[100] Although a provision for a reduction of the depreciation deduction by any incidental or consequential damages suffered by the consumer would be consistent with the equitable principles underlying the proposed rule, the practical and policy considerations which militate against such a provision are far more persuasive.

Under the Act, a warrantor is not required to reimburse a consumer for incidental[101] and consequential damages (other than personal injury) and is given the power under section 104(a)(3) of the Act to avoid liability for such damages. Accordingly, as a practical matter, the utility of including such a provision is dubious since the warrantor could invoke its right to exclude such damages from the warranty coverage and thereby render the provision ineffective. In view of the costs and difficulties of administering this provision, the possibility of such a result is not remote. Furthermore, enforcement of such a provision could only complicate and delay refunds, as the statute leaves unanswered a number of questions as to precisely what expenses are covered and what proof is needed.

4. *Date of first use.* Under the proposed rule, use of the consumer product will be measured from the date of delivery or date of installation, whichever is later.[102] Comment was requested on the issue of whether the consumer should be allowed to present evidence to show that actual use of the product began at a later date.

Industry comment on this issue was limited to submissions by four manufacturers. Exxon Co., Armstrong Cork Co., and Mohasco opposed such a proposal, emphasizing the administrative problems inherent in verifying the date upon which actual use commenced.[103] It was asserted that such a provision would be inequitable to warrantors since it would complicate and delay claims resolutions relating to refunds[104] and encourage many specious claims.[105] J. I. Case, on the other hand, did not wholly oppose such a provision, but only commented that its propriety would vary with the type of product and further pointed out that "to allow a consumer to establish his own date of first use may result in high selling prices to the consumer."[106G1]

Comments submitted by four consumer organizations[107] uniformly supported such a proposal on the ground that calculation of the depreciation deduction from the date of delivery or installation, as provided in the proposed rule, would penalize the consumer in situations where the initial use does not coincide with delivery or installation. Examples which were cited included those situations where consumer products are purchased as gifts[108] or off-season.[109] Comments received from individual consumers who opposed the proposed method of measuring use also cited purchases made for home inventories as another situation in which an inequitable result would be obtained.[110]

The arguments advanced by opponents and proponents are equally valid and present conflicting considerations. As a practical matter, however, the benefits to be achieved by such a provision would be vastly outweighed by the resultant burdens which would be imposed on consumers. The record contains substantial evidence concerning the difficulties encountered by consumers enforcing a warranty.[111] An additional requirement of establishing the date of first use will render this procedure even more complex and burdensome in view of the inherent problems of proof.[112] Furthermore, as the comments indicate, the costs of administering such a provision will be passed on to the consumer in the form of higher selling prices.[113]

The countervailing benefits are not substantial in comparison. The instances in which an inequitable result would be obtained are limited by two factors. First, under the Act the refund situation will arise only where repair and replacement are not feasible or if the consumer is willing to accept a refund.[114] Second, the comments submitted by consumers indicate that in the majority of cases, the consumer is not precluded from using the product upon delivery or installation to determine if it is defective.

The foregoing analysis therefore indicates that revision of the proposed rule to include such a provision would not be justifiable.

5. *Full Refund Period.* Comment was solicited on the issue of whether the rule should be revised to include a provision for a full refund if the product proves defective at or shortly after delivery. Industry's position on this issue was divided. Comments were submitted by six manufacturers and two trade associations. Exxon Co., Reynolds Aluminum Metal Co., and Corning supported such a provision but differed as to the time limit during which a consumer would be entitled to a full refund.[115] Armstrong, J. I. Case, Mohasco, CRI, and the National Automobile Dealers Association (NADA) opposed a provision for a full refund. However, the underlying arguments were either specious[116] or reflected a lack of understanding of the Act[117] or the underlying purpose of Section 101(12).[118]

Comments from consumers,[119] consumer organizations,[120] and others[121] uniformly supported a revision of the proposed Rule to provide for a mini-

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[99] See, e.g., R1-7, 4, R1-7, 35, R1-7, 88, consumer letters and R1-11, 1 Temple. See also R1-8, 6, NCLC and R1-8, 5, CFA (interest on moneys paid).

[100] See discussion at 20-21 above.

[101] Under §104(d) of the Act, a consumer would be entitled to incidental expenses only if incurred because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable burden on the consumer as a condition of securing a remedy.

[102] 16 CFR §704.1(f).

[103] R1-4, 7, Duval Didsey, Exxon Co., Houston, Tex. (hereinafter "Exxon"); R1-4, 6, Joseph Burke, Armstrong Cork Co., Lancaster, Pa. (hereinafter "Armstrong"); R1-4, 3, Mohasco.

[104] R1-4, 3, Mohasco.

[105] R1-4, 6, Armstrong.

[106] R1-4, 2; see also R1-4, 7, Exxon (increased administrative costs).

[107] R1-8, 4, Virginia Knauer, Director, Office of Consumer Affairs, Department of Health, Education, and Welfare, Washington, D.C. (hereinafter "Knauer"); R1-9, 3, Guggenheimer; R1-8, 5, CFA; R1-8, 6, NCLC.

[108] R1-9, 3, Guggenheimer.

[109] R1-8, 5, CFA, R1-8, 6, NCLC, R1-8, 4, Knauer.

[110] R1-7, 17, consumer letter.

[111] See, e.g., R1-7, 25 and R1-7, 124, consumer letters; R1-8, 6, NCLC; and R1-4, 3, Mohasco.

[112] In addition to the foregoing comments by manufacturers, see, e.g., R1-7, 102, consumer letter. ("I foresee many hassels for consumers about just how long said product was used. Many products are not put into use right after purchase.")

[113] R1-4, 2, J. I. Case; see also R1-4, 1, Corning ("Whatever system is used, it will, of course, be reflected in the selling price of the product.").

[114] See §101(10) and 104(d) of the Act.

[115] R1-4, 8, Edwin Harper, Reynolds Aluminum Metals Co., Richmond, Va. ("at the time of delivery or installation") R1-4, 7, Exxon (no more than 30 days after purchase or installation); R1-4, 11, Corning (a 3-month period).

[116] See R1-4, 6, Armstrong; R1-6, 3, CRI.

[117] See R1-4, 3, Mohasco; R1-4, 2, J. I. Case.

[118] See R1-6, 4, NADA.

[119] As discussed above, the majority of consumers opposed the principle of a deduction for depreciation on the ground that a full refund would not unjustly enrich the consumer. However, several consumers expressed qualified support for a revised rule which would require a full refund for some minimum period. See, e.g., R1-7, 1, R1-7, 148, R1-7, 106, consumer letters.

[120] R1-8, 6, NCLC, R1-8, 5, CFA, R1-9, 3, Guggenheimer.

[121] R1-9, 1, E. McGee, Jr.

mum period during which a full refund would be given. The arguments were based on both equitable and practical considerations. Most contended that a product must be used to determine if it is defective and therefore the purchaser should be allowed a "reasonable" trial period before the deduction is allowed.[122] Others asserted that a depreciation deduction would be illogical and unfair unless the consumer received satisfactory service from the product for some minimal period.[123] CFA alone offered an economic justification for a full refund period, commenting that the costs of calculation and recordkeeping could otherwise exceed the amount of the deduction. Most of the comments did not recommend a specified time period for a full refund provision. The few proposals which were submitted ranged from 1 to 6 months.[124]

The record therefore demonstrates that a full refund period is necessary to eliminate the aforementioned inequities resulting from the lack of such a provision and is supported by substantial evidence. However, with respect to the length of the full refund period, the disparity of recommendations indicate that a final resolution of this issue would necessitate additional comment.

IV. CONCLUSIONS

Having reviewed and evaluated the record developed in this rulemaking proceeding, the Commission has concluded that promulgation of a final Rule would not be in the public interest.

The legislative history of Section 101(12) manifests that the depreciation deduction is premised on the assumption that a full refund of the actual purchase price as a remedy under the Federal minimum standards for full warranties could unjustly enrich the consumer who has enjoyed the use of the product prior to obtaining a refund. The depreciation deduction was intended to prevent any unjust enrichment by apportioning, in an equitable manner, the economic burden of the warrantor's duty to refund. The record, however, establishes that a comprehensive Rule implementing Section 101(12) could not be formulated which would be both practicable and consistent with the statute.

The relatively few comments which were submitted evidence substantial opposition by both consumers and industry to the proposed method of calculating "reasonable depreciation based on actual use." The arguments were basically twofold. Consumers and consumer representatives contended that the proposed method does not achieve an equitable balance of consumer and warrantor interests and operates to penalize the consumer rather than prevent unjust enrichment. Much of the criticism was directed at the proposal for measuring "actual use" of the product[125] and the absence of a provision for an offset of monetary losses sustained as a result of the breach of warranty.[126] Industry, on the other hand, argued that the requirement of calculating the deduction on the basis of a useful life figure adopted and substantiated by the warrantor was infeasible. The comments asserted that the establishment of a substantiated useful life figure would either be impossible or, at minimum, unduly burdensome in terms of the cost and complexity of conducting such a study.[127]

Our analysis of recommended revisions and alternatives[128] has failed to uncover an approach to the rule which would be both practicable and in keeping with the law. Most of the revisions suggested were not viable because of the costs and difficulties of administration and enforcement.[129] With respect to the recommended revisions and alternatives to the useful life figure requirement, none met the statutory standard at Section 101(12), "reasonable depreciation based on actual use."[130]

In addition to the opposition to the proposed Rule, termination of this rulemaking proceeding is justified on the ground that the lack of a final Rule will have little impact on warranty practices. Many companies have been offering full warranties since July 1975. The general disinterest displayed by industry indicates that any inequity which might result from the pres- ent refund requirement is not a significant concern of warrantors. Furthermore, evidence in the record supports this conclusion. Sears, Roebuck & Co. commented that it would continue to offer a full refund under its full warranties even if the proposed Rule were promulgated, and predicted that other warrantors who have been offering full warranties would do the same.[131] Another retailer submitted a similar observation.[132]

For the foregoing reasons, the Commission has determined that promulgation of a final Rule would not be in the public interest and is exercising the discretion granted by the Act to eliminate the rulemaking proceeding on the proposed Rule.

The Commission's action with respect to the proposed Rule does not foreclose future rulemaking to implement Section 101(12) of the Act.[133] The Commission hereby gives notice that further rulemaking proceedings may be initiated pursuant to petition filed in accordance with the procedure provided by Section 1.25 of the Commission's Rules of Practice and Procedure. The Commission will consider petitions submitted by any interested person or group who wishes to propose a rule for a specific product or product class or a comprehensive rule covering all consumer products. A petition which will be deemed sufficient to warrant the holding of a rulemaking proceeding should propose a depreciation schedule which reflects "actual use" by the consumer, as required by Section 101(12). The record of this rulemaking proceeding and, in particular, this Statement should furnish guidance to a petitioner in formulating an appropriate proposal.

Issued: January 5, 1978.

By the direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-2606 Filed 1-30-78; 8:45 am]

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[122] See, e.g., R1-7, 148 and R1-7, 106, consumer letters.

[123] See, e.g., R1-7, 64 and R1-7, 70, consumer letters and R1-9, 3, Guggenheimer; see also R1-7, 6, NCLC.

[124] See, e.g., R1-7, 27, R1-7, 79, R1-7, 103, R1-7, 127, consumer letters; R1-8, 5, CFA; R1-8, 6, NCLC.

[125] See the discussion of comments at 37, 39-40 above.

[126] See the discussion of comments at 34-35 above.

[127] See § III(A)(2) above.

[128] See generally § III(B) above.

[129] See §§ III(B)(3) and III(B)(4) above.

[130] See §§ III(A)(1) and III(A)(2) above.

[131] R1-5, 4.

[132] R1-5, 3, Rolfe Brokerage.

[133] Although the statutory language of § 101(12) does not mandate rulemaking, the legislative history manifests a congressional intent that the Commission promulgate a rule or rules implementing this section. (See 120 Cong. Rec. H12348 (daily ed.) Dec. 19, 1975.) Accordingly, notwithstanding the Commission's decision to terminate the proceeding on the proposed rule, the door will be left open to petitions for further rulemaking proceedings which demonstrate potentially viable means to satisfy this intent.

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182, 184]

[Docket No. 77N-0311]

BILE SALTS AND OX BILE EXTRACT

GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Commissioner of Food and Drugs is proposing to affirm the generally recognized as safe (GRAS) status of ox bile extract as a direct human food ingredient. He is also proposing to remove cholic acid, desoxycholic acid, glycocholic acid, taurocholic acid, and the sodium salt of taurocholic acid from GRAS status. The safety of the ingredients has been evaluated pursuant to the comprehensive safety review being conducted by the agency.

DATES: Comments by April 3, 1978.

ADDRESS: Written comments (preferably four copies) on this proposal may be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of some bile salts and ox bile extract has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of ox bile extract and to remove cholic acid, desoxycholic acid, glycocholic acid, taurocholic acid, and the sodium salt of taurocholic acid from the GRAS list.

ox bile extract, also known as purified oxgall and sodium choleate, is a mixture of varying amounts of the salts of bile acids, lipid material such as cholesterol and lecithin, choline compounds, glycocoll and other substances. It is obtained by evaporating the alcohol extract of concentrated bile. The bile acids, which occur as sodium salts in the bile of most vetebrates, are derivatives of the steroid cholanic acid.

Bile salts and hence bile extract are useful in some food because of their emulsifying properties. Cholic acid (§ 182.4029), desoxycholic acid (§ 182.4037), glycocholic acid (§ 182.4053), taurocholic acid (or its sodium salt) (§ 182.4105) and ox bile extract (§ 182.4560) are listed as GRAS when used as emulsifying agents in dried egg whites at a level not exceeding 0.1 percent, pursuant to regulations published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368).

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which bile salts and ox bile extract were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to this substance. It was reported that the amount of ox bile extract used in food in 1970 was 783 pounds. There were no reports on the uses of individual bile acids or their salts in foods.

Bile salts and ox bile extract have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 910 abstracts was reviewed, and 78 particularly pertinent reports have been summarized in a scientific literature review.

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

Bile acids formed in the liver from cholesterol, conjugated with taurine and glycine, excreted in bile, and deconjugated by intestinal flora; 90-95 percent are reabsorbed via the portal circulation. Bile acids are absorbed in the cecum of rats, lower small intestine of guinea pigs and man, and the large bowel of man. The enterohepatic circulation conserves most of the bile acids secreted. Bile acids are excreted only in the feces.

The reported mean half-life of cholic acid in man on a regular diet, based on feeding cholic acid-24-^{14}C, was estimated to be 2.8 days. The half-life and the size of the cholic acid pool were found to be dependent on the amount of fat in the diet. In later studies, conducted on a single subject, cholic acid half-life was found to be 8.8 days on a butterfat diet, 3.7 days on a corn oil diet and 4.2 days on a fat-free diet. The cholic acid pool sizes were 1.67 g, 1.49 g, and 1.59 g, respectively.

The bile acids are strongly bound to plasma albumin, cholic acid being more avidly bound than its taurine conjugate. There is reported to be one primary binding site per albumin molecule and several sites of weaker affinity. In diets rich in cholesterol, cholic acid or blycocholic acid, but not desoxycholic acid, enhances the absorption of the cholesterol in rabbits. This results in a hypercholesterolemia. Although the precise mechanism is unknown, cholic acid stimulation of the esterification of cholesterol in the gut wall was suggested.

From a summary of some of the acute toxicity data on cholic acid and its derivatives, desoxycholic acid appears to be comparatively more toxic than cholic acid, although the oral LD_{50} is greater than 1 g per kg for both. The signs of intoxication produced by cholic acid and its derivatives are similar. Bronchoconstriction, probable related to histamine release, was most prominent following the intravenous administration of desoxycholic acid to cats, glycocholic acid to guinea pigs and cats, and taurocholic acid to cats.

Chicks fed 0.34 percent cholic acid in the diet (estimated to be about 400 mg per kg body weight per day) for 14 days exhibited a slightly greater weight gain than control animals. A level of 0.2 percent cholic acid in the diet of chicks for four weeks caused no adverse effects other than a slight increase in fat absorption. There was a temporary decrease in egg production after feeding 0.2 percent cholic acid to laying hens.

Lithocholic acid (3-hydroxycholanic acid) increased liver size and raised plasma cholesterol when fed as a hypercholesterolemic agent at a level of 0.2 percent in the diet (about 250 mg per kg of body weight) to growing chicks. These effects were partilly reversed when cholic acid was fed.

Cholic acid fed to female mice at levels up to 1.0 percent (up to about 1,500 mg per kg of body weight) for 8 months caused cholesterol stones and gall bladder lesions. The effects appeared to be dose related.

Male Gofmoor rats fed cholic acid at a level of about 250 mg per kg of body weight for 26 days had smaller body weights and exhibited, at autopsy, increased heart weight and decreased liver weight per 100 g body weight. Weanling male Holtzman rats fed 0.1 and 2.0 percent of sodium cholate (about 100 and 2,000 mg per kg of body weight, respectively) for periods up to 28 days developed diarrhea. Rats at the 0.1 percent level showed no growth depression. However, rats fed at the 2 percent level had a high mortality (none survived longer than 21 days) and at autopsy, hyperemia of the distal small intestine was observed.

Chicks fed up to 0.2 percent desoxycholic acid (about 200 mg per kg of body weight per day) in the diet for as long as 21 days did not present adverse signs and the chicks fed 0.1 percent showed a slightly greater weight gain than control animals.

Holtzman-Rolfsmeyer male and female rats fed 100 mg of desoxycholic acid per rat per day (about 1 g per kg of body weight) for one to four weeks achieved higher serum cholesterol levels than did control animals. Desoxycholic acid was found to be much more toxic for male rats than for females.

In other studies, male rats received 0.15 percent desoxycholic acid in the diet (about 150 mg per kg of body weight per day) for up to four weeks without adverse effects. In a longer term study, male Wistar rats were fed diets containing 0.005, 0.025, or 0.125 percent desoxycholic acid (about 3 to 80 mg per kg of body weight) for 20 months without adverse effects.

Growth of male Wistar rats on an essential fatty acid-deficient diet was impaired (about 66 percent of the controls) when 1.0 percent of sodium glycocholate (about 1 g per kg of body weight per day) was added to the diet for five weeks.

Male Holtzman rats received 0.1 and 2.0 percent of sodium taurocholate in their diets for 28 days. The 0.1 percent level diet (about 200 mg per kg of body weight) appeared to stimulate growth, whereas the 2.0 percent level depressed growth.

Male Holtzman rats were administered 0.5 and 1.0 percent ox bile in their diet for 28 days to study the effects on efficiency of food utilization. Weight gain was about 70 percent of the controls at the 0.5 percent level, and about 50 percent of the controls at the 1.0 percent level. The mechanisms responsible for the growth depression were not reported; the authors did not suggest that ox bile was toxic at these levels.

Cholic acid fed to rats at a level of 2.0 percent (about 1 g per kg of body weight) for 8 months was not tumorigenic. Cholic acid or desoxycholic acid fed to rabbits at a level of 100 mg per animal daily (about 50 mg per kg of body weight) for 90-120 days and to mice at a level of 20 mg daily (about 1 g per kg of body weight) for 84 days produced no evidence of tumorigenicity. Desoxycholic acid (a total of 70 mg in 15 injections in 300 days) injected intramuscularly in sesame oil resulted in malignant tumor development in mice. However, male Westar rats fed up to 0.125 percent desoxycholic acid in the diet (about 80 mg per kg of body weight) for 20 months did not develop malignant tumors nor did the rats or C3H mice receiving subcutaneous implants of pellets averaging 16.5 mg of desoxycholic acid. Chicks fed 0.25 percent cholic acid (about 300 mg per kg of body weight) in their diet for 16 days developed three times as many tumors as control chicks following the injection of Rous sarcoma virus. In these experiments tumor response was also stimulated by folic acid, nicotinamide, pantothenate, and riboflavin in the diet, and the significance of these data with respect ot the possible carcinogenicity of cholic acid is not clearly demonstrated.

Male rats fed a diet containing 5 percent cholesterol and 2 percent sodium cholate (about 2 g of sodium cholate per kg of body weight) for 35 weeks developed hypertension and hyperlipemia. Occurrence of multiple thrombi in small vessels of the heart and aorta, and nephrotic lesions were considerably increased in comparison with controls receiving no added cholesterol or cholate. Young weanling rats fed a diet containing 1 percent cholesterol and 0.3 percent cholic acid (about 300 mg of cholic acid per kg of body weight) for 28 days showed a decreased weight gain compared with control rats. At autopsy, these rats exhibited sudanophilia of the left ventricular valves and aorta and edematous kidneys. The sudanophilia was believed to reflect a condition where entrapped leukocytes contained minute fat droplets that stained red with the Sudan IV tissue stain.

Cebus monkeys fed casein diets containing 5 percent cholesterol and 1 percent sodium cholate (about 500 mg per kg of body weight) for a year lost weight and developed hypercholesterolemia and aortic atherosclerosis. However, in these experiments other animals, consuming diets containing other proteins, also became hypercholesterolemic and atherosclerotic whether or not cholic acid was fed. Mice fed a diet containing 1 percent cholesterol and 0.5 percent desoxycholic acid and/or 0.5 percent cholic acid for 4 months, developed cholesterol gallstones, fatty degeneration of the liver and increased liver and serum cholesterol levels. Apparently, control animals on diets without added bile acids were not studied. Similar findings were later reported for the mongolian gerbil.

Tepperman et al. fed mice that had previously received a single intraperitoneal injection of 0.8 mg of aurothioglucose, on a diet containing 1 percent cholesterol and 0.5 percent cholic acid for 9 months. These animals developed galistones and fatty livers. Gallstones developed only under the following conditions: cholesterol and cholic acid had to be fed simultaneously, food intake had to be sufficiently high and liver function had to be impaired.

Male Wistar rats on a diet containing 1 percent cholesterol and 0.4 percent cholic acid (about 180 mg per kg of body weight) for 11 weeks developed yellow livers, hypercholesterolemia, and adrenal enlargement at 5 weeks. In another study, Wistar rats fed a 1.29 percent cholesterol-1.0 percent cholic acid diet (about 500 mg per kg of body weight) for 10 weeks developed hypercholesterolemia and elevated liver lipid levels.

The feeding of a 1 percent cholesterol-0.5 percent cholic acid diet to hamsters for 4 months produced fatty livers, gallstones, enlarged spleens, fatty renal changes, and cholesterol crystals in the adrenal cortex, lung, spleen, and lymph nodes.

Cholic acid in doses of 0.25 g three times a day for one week served as an effective cathartic in four of five female patients in a controlled, single blind study. The fifth patient did not respond to this dose but obtained a cathartic effect at a total dose of 2.25 g per day. With human subjects it was estimated that the effective dose is 20 mg per kg per day, which is approximately twice the daily synthesis rate of cholic acid in a healthy person.

Bile acids have been reported to control and suppress appetite in obese humans. Desoxycholic acid or cholic acid was taken in three daily doses totalling 1200 mg per day for two weeks and the body weights of the nine patients were compared with placebo administration trials. Desoxycholic acid decreased the desire for food and caused some weight loss, but cholic acid was without effect. Because bile is essential for normal digestion and absorption, ox bile extract was formerly prescribed for patients with digestive disorders in doses of 300 mg two or three times a day. Ox bile extract is not commonly prescribed in modern medical practice.

All the available safety information on bile salts and ox bile extract has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

The amounts of the bile acids ingested as constituents of ox bile extract used as a food additive are relatively insignificant, compared to the amounts normally present in the bile of man. The available information indicates that orally administered cholic acid, desoxycholic acid, glycocholic acid, and taurocholic acid are readily absorbed and excreted without accumulation. The exhibit a relatively low toxicity for several animal species tested.

The Select Committee has no information to indicate that the individual bile acids or their salts are used in foods. However, the intake estimates available for ox bile extract, of which bile acids and their salts are major constituents, indicate that average daily consumption of ox bile extract added to foods is small, amounting to 0.1 mg or less. The intake of individual bile acids or their salts would be, commensurately, very small. Such biological effects as have been reported in animal studies, have been elicited at levels of administration that are several orders of magnitude greater than the levels to which man is now exposed in his daily diet.

It is the conclusion of the Select Committee that there is no evidence in the available information on ox bile extract, or its constituents—cholic acid, desoxycholic acid, glycocholic acid, and taurocholic acid—that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future. Based on his own evaluation of all available information on bile salts and ox bile extracts, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of ox bile extract is justified.

On April 13, 1973 (38 FR 9310) the Commissioner proposed that cholic acid, desoxycholic acid, glycocholic acid, sodium taurocholate, and taurocholic acid be removed from the GRAS list because the survey of food manufacturers on the use of GRAS ingredients did not indicate that these substances were being used in human foods. Comments on this proposal were received asking that desoxycholic acid and taurocholic acid not be removed from the GRAS list. Subsequent correspondence with these commentors revealed that these two bile acids were no longer being used in human foods. No comments were received concerning the use of cholic acid, glycocholic acid or sodium taurocholate. Additionally, the survey did not indicate that ox bile extract was used in human food as an emulsifier as defined in § 170.3(o)(8) (21 CFR 170.3(o)(8)). It should be emphasized that use information is very important in judging the safety of food ingredients because it facilitates assessment of total dietary intake. Therefore, the Commissioner proposes that cholic acid, desoxycholic acid, glycocholic acid, taurocholic acid and its sodium salt be removed from the GRAS list (§§ 182.4029, 182.4037, 182.4035, and 182.4105, respectively), and ox bile ex-

tract be removed from the GRAS list (§ 182.4560) for use as an emulsifier unless the following information is submitted during the comment period: evidence of use, including (1) food categories as defined in § 170.3(n) in which the ingredient is used; (2) levels of use in particular food categories; and (3) technical effect for which it is used as defined in § 170.3(o). If these substances are removed from the GRAS list, subsequent consideration of their use in food can be obtained through the petition procedures described in § 170.35 or § 171.1.

The survey, however, did indicate that ox bile extract was used as a surfactant as defined in § 170.3(o)(29). Since ox bile extract has a history of safe use in food, and because the information developed for this safety review forms a sound scientific basis for judging its safety, the Commissioner is proposing that this use be affirmed as GRAS.

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

Title	Order No.	Price code	Price[1]
Cholic acid and derivatives (scientific literature review).	PB-223-844/AS..	A06	$6.50
Bile salts and ox bile extract (select committee report).	PB-254-524/AS..	A02	4.00

[1]Price is subject to change.

This proposed action does not affect the current use of bile salts and ox bile extract for pet food or animal feed.

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

1. In Part 182:

§ 182.4029 [Deleted]

a. By deleting § 182.4029 *Cholic acid.*

§ 182.4037 [Deleted]

b. By deleting § 182.4037 *Desoxycholic acid.*

§ 182.4053 [Deleted]

c. By deleting § 182.4053 *Glycocholic acid.*

§ 182.4105 [Deleted]

d. By deleting § 182.4105 *Taurocholic acid.*

§ 182.4560 [Deleted]

e. By deleting § 182.4560 *Ox bile extract.*

2. In Part 184, by adding new § 184.1560 to read as follows:

§ 184.1560 Ox bile extract.

(a) Ox bile extract (CAS Reg. No. MX 8008-63-7), also known as purified oxgall or sodium choleate, is a yellowish green, soft solid, with a partly sweet, partly bitter, disagreeable taste. It is the purified portion of the bile of an ox obtained by evaporating the alcohol extract of concentrated bile.

(b) Food-grade ox bile extract shall meet the specifications of the U.S. Pharmacopeia (USP), XIV, 1950, p. 410.[1]

(c) The ingredient is used as a surfactant as defined in § 170.3(o)(29) of this chapter.

(d) The ingredient is used in food in accordance with § 184.1(b)(1) of this chapter, at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.002 percent for cheese as defined in § 170.3(n)(5) of this chapter.

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

Interested persons may, on or before April 3, 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.

[1]Copies may be obtained from: U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Md. 20852.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: January 19, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on October 21, 1977 and is on file in the Federal Register Library.

[FR Doc. 78-2406 Filed 1-30-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 200]

[Docket No. R-77-499]

HUD STANDARD FOR DETACHED CARPET CUSHION

Revision and Integration of Existing HUD Cushion Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This proposed rule, Use of Materials Bulletin No. 72, modified, updates, and integrates all existing HUD carpet cushion standards for cushion to be installed under HUD-accepted carpet products. This will simplify industries action involving these standards. Upon adoption, this will become part of the Minimum Property Standards.

DATE: Comments must be received on or before March 17, 1978.

ADDRESS: Send comments to: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. James Kanegis, Materials Acceptance Branch, Architecture and Engineering Division, Department of Housing and Urban Development,

Washington, D.C. 20410, 202-755-5929.

SUPPLEMENTARY INFORMATION: On November 25, 1974, the Department of Housing and Urban Development released its Use of Materials Bulletin No. UM 44c, "HUD/FHA Standard for Carpet and Carpet Certification Program." HUD's notice of intent to publish its Use of Materials Bulletin No. UM 44c was published in the FEDERAL REGISTER, October 8, 1974, at 39 FR 36129 and covered both the standard and the certification program. As adopted, the program contains a provision that only carpet products determined to be in compliance with UM 44c and so certified by a program administrator will be acceptable for HUD programs. UM 44c notes that installation (of certified carpet products) shall be by experienced and qualified installers, following acceptable carpet and cushion laying techniques, over HUD-accepted attached or detached carpet cushion.

The present proposed cushion standard deals with the requirements for HUD detached carpet cushion. Carpet which has cushion attached to it is treated as a carpet and falls within UM 44c and the carpet certification program. When carpet is installed over cushion HUD requires assurance that such cushion will have a level of performance and durability such that the carpet/cushion system itself will be a satisfactory one.

Heretofore HUD has been relying on different issuance documents to cover several types of detached cushion. Notice is hereby given that the Secretary of Housing and Urban Development proposes to consolidate and revise all such documents into a single standard. That standard will serve to cancel the detached cushion sections of Use of Materials Bulletin No. UM 44b, Um 47a covering bonded urethane carpet cushions, Notices on prime urethane carpet cushion dated February 14, 1972 and May 12, 1972, Material Releases 681, 768, 869 and 878 and sections of other releases dealing with flammability.

Limitations: This standard does not preclude acceptance of other cushion products.

Cushion products which fall within this standard are acceptable only if they conform thereto. Nonstandard cushion products will be carefully evaluated by HUD and, if deemed equal to or superior to those covered by the standard, will be classified as acceptable through issuance of a Materials Release to its manufacturer. HUD intends to add amendments to UM 72 as new and acceptable generic cushion products are developed and found suitable.

Interested parties are invited to submit written comments, suggestions, corrections or additions concerning the standard in triplicate, using the above Docket No. and title. If you propose different minimums or suggest other technical changes it will be more constructive if you furnish your rationale and, if possible, interrelate them to other types of cushion products covered by the standard. All information so received will be carefully considered prior to preparation of a final UM 72. Submit your correspondence to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Copies of this correspondence will be available for examination at that address during normal business hours.

While carpet products are not acceptable in HUD programs unless they have been tested and approved in accordance with the HUD Carpet Certification Program, it is not intended that carpet cushion be subjected to such a type of certification program. Instead, its acceptability is as specified in Section 3—Certification, of this proposed standard. If the self-certification approach therein specified does not sufficiently meet the needs of HUD or the consumer in HUD programs, HUD reserves the right to consider instituting a certification program similar to that now being used for carpet.

HUD reserves the right to spot check cushion certified by the manufacturer, such samples to be obtained randomly from any of the several possible sites.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

NOTE.—It is hereby certified that the economic and inflationary impacts of 24 CFR 200.933 have been carefully evaluated in accordance with Executive Order No. 11821.

AUTHORITY: Section 7(d) of the Development of Housing and Urban Development Act (42 U.S.C. 3535(d).

Issued at Washington, D.C., January 20, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

Series and Series No.

USE OF MATERIALS
BULLETIN NO. 72

TO: AREA OFFICE DIRECTORS
INSURING OFFICE DIRECTORS

Date

SUBJECT:

HUD STANDARD FOR DETACHED CARPET CUSHION

Members of the HUD Staff processing cases and inspecting construction shall use this information in determining acceptability of the subject material for the uses indicated.

This bulletin should be filed with Bulletins on Special Methods of Construction and Materials as required by prescribed procedures. Additional copies may be requisitioned by the field offices.

The technical description, requirements and limitations expressed herein do not constitute an endorsement, approval or acceptance by the Federal Housing Administration of the subject matter, and any statement or representation, however made, indicating approval or endorsement by the Federal Housing Administration is unauthorized and false, and will be considered a violation of the United States Criminal Code 18, U.S.C. 709.

Any reproduction of this bulletin must be in its entirety and any use in sales promotion or advertising is not authorized.

Subject to good workmanship, compliance with local codes, and the methods of application listed herein, the materials described in the bulletin may be considered suitable for HUD Mortgage Insurance or Low Rent Public Housing Programs.

The eligibility of a property under these programs is determined on the property as an entity and involves the consideration of underwriting and other factors not indicated herein. Thus, compliance with this bulletin should not be construed as qualifying the property as a whole, or any part thereof, as to its eligibility.

The methods of application for the materials listed herein are to be considered as part of the HUD Minimum Property Standards and shall remain effective until this bulletin is cancelled or superseded.

INDEX

Section Number and Title

1 General.
2 Use.
3 Certification.
4 Identification.
5 Physical and test requirements: Applicable specifications.
6 Description and physical properties.
7 Applicable specifications and test methods.
8 Flammability.
9 Quality assurance provisions.
Appendix—conversion, metric and SI units.
Cross Reference to the three types of cushion.

COVERAGE

This standard revises and supersedes previously issued Use of Materials Bulletins, Notices and Material Releases dealing with carpet cushion, including the cushion requirements in UM 44b, UM 47a; Notices on prime urethane carpet cushion dated February 14, 1972 and May 12, 1972; MR 681, MR 768, MR 869, and MR 878, and amendments thereto. Carpets with attached cusions are not a part of this standard but are covered in UM 44c or additions and amendments thereto.

SECTION 1.—GENERAL

This standard covers detached carpet cushion for all HUD programs. Only carpet cushion products determined to be in compliance with this standard and so certified, are acceptable.

Three types of detached carpet cushion products qualified for use under this bulletin are:

Type I—Felt:
A. Animal hair.
B. Rubberized jute and rubberized animal hair.

Type II—Cellular rubber:
A. Rippled.
B. Flat sponge.
C. Foam rubber.

Type III—Urethane foam:
A. Prime urethane.
B. Densified prime urethane.
C. Graft polyol-based urethane.
D. Bonded urethane.

Classes of Cushion. Carpet cushion products shall also be categorized by class, based primarily on area of use.

Class 1—For moderate traffic use within one- and two-family, multifamily and care type dwelling units. Moderate traffic areas are areas such as living rooms, dining rooms, bedrooms, recreation rooms, and corridors in single-family units. Class 2 cushion may be used in Class 1 application.

Class 2—For heavy traffic use at all levels but specifically for public areas such as lobbies and corridors of multifamily and care type facilities.

SECTION 2.—USE

No cushion formulation, wet or dry, may be used which will have an objectionable odor or tackiness, or which will bleed onto the carpet or interreact with it in any deleterious manner during reasonably normal use or during reasonably normal washing and/or cleaning maintenance programs. All cushion materials may be used directly over above-grade concrete floors, wood (including plywood or particleboard), tile, terrazzo, or other acceptable finish flooring when subflooring materials meet HUD/FHA Minimum Property Standards (MPS). Cushion may be used in on-grade situations, and below grade only when so specified and warranted by the manufacturer. Cushion may be installed below grade only when a vapor barrier meeting MPS PARAGRAPH 507-2 has been installed beneath the slab. Cushion shall be installed with no gap and with tight seams.

SECTION 3.—CERTIFICATION

As a condition for acceptance of each cushion product, the manufacturer certifies to HUD that the product meets the requirements of this Use of Materials Bulletin No. 72 at the time of installation except for physical damage in transit, storage, or handling under circumstances or by individuals outside of manufacturer's control); also that when the cushion is properly installed under a carpet product meeting HUD requirements for the same type of traffic, it will provide satisfactory service for the life of the original carpet installed over it. The manufacturer further certifies to HUD that, when directed to do so by the responsible HUD local office, a detached cushion which fails to meet the certification requirements will be replaced with one meeting them, either without charge for materials, or on the basis of a pro-rata installation policy previously approved by and on file with HUD.

The certification on attached cushion is the responsibility of the carpet manufacturer. He is bound by UM 44c and addendums or changes thereto, and the HUD Carpet Certification Program.

SECTION 4.—IDENTIFICATION

Detached roll cushion shall be appropriately and permanently marked or labeled at least every 10 lineal feet so as to be readily identifiable after installation. Marking shall consist of no less than the product and manufacturer's name or identification number if a private label or brand product. The only exception shall be the Type I felt cushions. These shall be readily identifiable by a distinctive and unique waffle pattern, preregistered with HUD. For definite size underlay such identification may be in a corner. In addition, the wrapper or package shall be imprinted, labeled, or tagged to show all items of identification listed below.

Name and address of the manufacturer, or a manufacturer's identification number which shall be on record with HUD in the case of private label or private brand products.

2. Description of the specific product (e.g. bonded urethane carpet cushion).

3. Class of product as defined in this bulletin (i.e., heavy traffic or moderate traffic, or Class I or Class II of UM 72).

4. Compliance with UM 72.

5. Abbreviated coding for the above will be acceptable after being cleared by HUD Headquarters.

SECTION 5.—*Physical and test requirements: Applicable specifications*

Description	*Designation*
Rubber: Sampling and testing	FTMS[1] 601.
Textile test methods	FTMS 191.
Chemical analysis of rubber products.	ASTM D 297.
Latex foam flexible cellular materials.	ASTM D 1055.
Flexible cell materials—slab, bonded, and molded urethane foams.	ASTM D 3574.
Low temperature compression set of vulcanized elastomers.	ASTM D 1229.

SECTION 5.—*Physical and test requirements: Applicable specifications*—Continued

Description	*Designation*
Surface flammability of carpets and rugs.	DOC FF 1-70[2] DOC FF 2-70, and rev.
Surface burning characteristics of building materials.	ASTM E 84.
Interim Federal specification—cushion, carpet and rug, cellular rubber.	ZZ-C-0081b.
Interim Federal specification—cushion, carpet and rug (hair felt and rubber coated) jute and animal hair or fiber).	DDD-C-001023 and amendment 1.
Interim Federal specification—cushion, carpet and rug, prime urethane.	L-C-001676 and amendment 1.
Interim Federal specification—cushion, carpet and rug, bonded urethane.	L-C-001369.
Interim Federal specification—carpet and rugs, wool, nylon, acrylic, modacrylic, polyester polypropylene.	DDD-C-0095A.
Interim Federal specification—carpet, loop, low pile height, high density, woven or tufted, with attached cushioning.	DDD-C-001559.

[1] FTMS—Federal Test Method Standard.
[2] Administered by the Consumer Product Safety Commission. Copies available at 111 18th St. NW., Washington, D.C. 20207.

SECTION 6.—DESCRIPTION AND PHYSICAL PROPERTIES

TYPE IA—FELT—ANIMAL HAIR

Construction and Composition

Animal hair felt carpet cushion shall conform to Interim Federal Specification DDD-C-001023, December 22, 1966, "Cushion, Carpet and Rug (Hair Felt and Rubber Coated Jute and Animal Hair or Fiber)", Amendment 1, March 10, 1972, and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with DDD-C-001023 and Amendment 1.

Animal hair shall be predominatly washed cattle hair but not to the exclusion of other fibers. The fiber content of all felt shall not be less than 90 percent cattle hair, except for the core material. Up to 9 percent adhesive material (based on weight of the hair and fiber content) is permitted for binding the interliner material. Adhesive shall be nonsouring in the presence of moisture. Chloroform- and water-extractable matter shall not exceed 16.0 percent by weight, based on the bone dry weight. Manufacturers or laboratories preferring to use a less toxic solvent than chloroform may do so after first clearing with HUD.[1]

Animal hair shall be cleaned, washed and sterilized by thorough drying, and shall be free from loading materials and foreign matter. The felt for the cushion shall be a matted fabric evenly felted on each side of an interliner by a needleloom (needlepunched) process.

The interliner used for reinforcement shall be burlap fabric weighing not less than 4.2 ounces per square yard, or other open mesh or nonwoven material. The nonburlap products shall provide the necessary strength to eliminate shrink and stretch in

[1] When this standard was developed no alternative solvent or procedure had been proposed.

excess of burlap support in both directions of the cushion. The felt shall be compressed into a waffled pattern.

Physical Requirements

Animal hair felt cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 1. Other characteristics and test requirements applicable to both classes are also detailed in Table 1.

TYPE IB—FELT—RUBBERIZED JUTE AND RUBBERIZED ANIMAL HAIR

Construction and Composition

Rubberized jute cushion and rubberized animal hair carpet cushion shall conform to Interim Federal Specification DDD-C-001023, December 22, 1966, "Cushion, Carpet and Rug (Hair Felt and Rubber Coated Jute and Animal Hair or Fiber)", Amendment 1, March 10, 1972, and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with DDD-C-001023 and Amendment 1, except that there shall be no requirement to include 10 percent of animal hair in rubberized jute.

Animal hair for rubberized animal hair cushion shall be predominately washed cattle hair but not to the exclusion of other fibers. The fiber content of all felt shall not be less than 90 percent cattle hair. Animal hair shall be cleaned, washed and sterilized by thorough drying, and free from loading materials and foreign matter.

Rubberized jute and rubberized animal hair cushion shall be of needle-punched construction. A rubber coating shall be applied to both faces of the cushion and shall be of foamed or unfoamed rubber made from natural, reclaimed, or synthetic rubber, or suitable mixtures thereof. Rubber shall not readily peel off when rubbed with fingers at a normal pressure.

Physical Requirements

Rubberized jute cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 2. Other characteristics and test requirements applicable to both classes are also detailed in Table 2.

TYPE IIA—CELLULAR RUBBER-RIPPLED

Construction and Composition

Rippled (waffled) cellular rubber carpet cushion shall conform to Interim Federal Specification ZZ-C-00811b, January 2, 1963, "Cushion, Carpet and Rug, Cellular Rubber" and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with ZZ-C-00811b.

Rippled cellular rubber cushion shall be made from natural or synthetic rubber or a mixture thereof, combined with plasticizers, fillers, blowing agents and curing agents. After blowing, the cushion shall have a cellular sponge structure. The cellular rubber shall be formed in a continuous sheet having permanent rippled design. A suitable facing material shall be applied to one surface of the cushion. If the facing material is not commonly used in the trade, its acceptability shall be determined by consultation with HUD. Facings shall be such that conventional carpet products may readily slide across their surfaces during installation.

Physical Requirements

Rippled cellular rubber cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 3. Other characteristics and test requirements applicable to both classes are detailed in Table 3.

TYPE IIB—CELLULAR RUBBER—FLAT SPONGE

Construction and Composition

Flat sponge cellular rubber carpet cushion shall conform to Interim Federal Specification ZZ-C-00811b, January 2, 1963, "Cushion, Carpet and Rug, Cellular Rubber", and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with ZZ-C-00811b.

Flat sponge cellular rubber shall be manufactured of the same composition as rippled cellular rubber, Type IIA, except that the finished sheet shall be essentially flat or smooth in configuration. (A slight pattern may be embossed into one side.) A suitable facing material shall be applied to one surface or the cushion. Requirements for such facing are identical to those given for Type IIA.

Physical Requirements

Flat sponge cellular rubber cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 4. Other characteristics and test requirements applicable to both classes are detailed in Table 4.

TYPE IIC—CELLULAR RUBBER—FOAM

Construction and Composition

Foam cellular rubber carpet cushion shall conform to Interim Federal Specification ZZ-C-00811b, January 2, 1963, "Cushion, Carpet and Rug, Cellular Rubber", and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with ZZ-C-00811b.

Foam cellular rubber shall be manufactured from a latex rubber base, either natural, synthetic, or a blend of both. It shall contain suitable additives for developing adequate cellular structure, for promoting vulcanization, and for achieving the required physical properties. Foam cellular rubber cushion shall be manufactured in flat continuous sheets. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical with those given for Type IIA.

Physical Requirements

Foam cellular rubber cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 5. Other characteristics and test requirements applicable to both classes are detailed in Table 5.

TYPE IIIA—URETHANE FOAM—PRIME

Construction and Composition

Prime urethane foam carpet cushion shall conform to Interim Federal Specification L-C-001676, December 10, 1970, "Cushion Carpet and Rug, Prime Urethane", Amendment 1, September 7, 1971, and modifications specified in this bulletin. In the event of conflict between L-C-001676, Amendment 1 thereto, and this bulletin, the specifications in this bulletin shall apply. Prime urethane foam carpet cushion shall be manufactured from a virgin polyether-polyurethane foam. No polyester material shall be included. The structure shall consist of a network of open or interconnecting cells, with porous surfaces substantially free of voids. The foam may contain fillers to increase density or enable it to meet the fire resistance requirements specified in this bulletin. Fillers used to increase density shall not be used to calculate the urethane polymer density minimums which are specified in Table 6 and which are the minimum requirements for acceptance. Coloring matter may be added provided it will not bleed or cause any other unsatisfactory performance of the end product. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

Physical Requirements

Prime urethane foam cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 6. Other characteristics and test requirements applicable to both classes are detailed in Table 6.

TYPE IIIB—URETHANE FOAM—DENSIFIED PRIME URETHANE

Construction and Composition

Densified prime urethane carpet cushion shall be composed of prime, homogeneous, polyether/polyurethane foam having a modified cellular structure and characterized by elongated cells. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

Physical Requirements

Densified prime urethane shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 7. Other characteristics and test requirements applicable to both classes are detailed in Table 7.

TYPE IIIC—URETHANE FOAM—GRAFT POLYOL-BASED URETHANE

Construction and Composition

Graft polyol-based urethane carpet cushion shall be composed of prime, homogeneous, polyether/polyurethane foam characterized by increased stiffness and firmness resulting fom the use in its manufacture of polyols based on graft polymers or other modifications of the formulation which produce increased stiffness. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

Physical Requirements

Graft polyol-based urethane cushion shall meet all the minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 8. Other characteristics and test requirements are detailed in Table 8.

TYPE IIID—URETHANE FOAM—BONDED

Construction and Composition

Bonded urethane foam carpet cushion shall conform to Federal Specification L-C-001369, December 10, 1969, "Cushion, Carpet and Rug, Bonded Urethane" and amendments specified in this bulletin. In the event of conflict between L-C-001369 and this bulletin, the specifications in this bulletin shall apply.

Bonded urethane foam carpet cushion shall be composed of 100 percent prime polyurethane foam, at least 50 percent of

which shall be polyether foam. Filter, reticulated, impregnated vinyl, slow recovery, fabric and fabric-backed foams, separately added fillers, adulterants, foreign materials, latex foams, and other non-urethane foams shall not be permitted. Typical adulterants include dirt, tramp metal, wood chips, and paper. In the event of dispute, a representative 50 gram sample shall be scissor cut into one-inch cubes or equivalent. The sample shall be placed on a Standard U.S. Sieve No. 6 and shaken to remove all debris. This debris shall be weighed to 0.1 gram accuracy and its percent of original weight calculated. A maximum of 1 percent debris is permitted.

The foam shall be ground or shredded to a particle size not exceeding ½", bonded together with a basically urethane or other suitable type binder, and sufficient solid content added to allow cushion to meet the physical and chemical requirements of this bulletin. When a urethane binder is used a good commercial quality product usually has a minimum binder content of 8 percent by weight of pre-cured mass. Materials which will reduce the viscosity and improve the wetting characteristics of the urethane prepolymer may be added.

Coloring matter may be added, provided it will not bleed or cause any other unsatisfactory performance of the product. All materials shall be suitably blended, processed, cured, and fabricated into sheet form, using acceptable trade manufacturing techniques. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

Physical Requirements

Bonded urethane foam cushion shall meet all the minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 9. Other characteristics and test requirements applicable to both classes are detailed in Table 9.

SECTION 7.—APPLICABLE SPECIFICATIONS AND TEST METHODS

The following tables present the necessary physical characteristics required for each type of cushion. Permissible tolerances are given in *Section 9—Quality Assurance Provisions.*

CLD—Compression Load Deflection.

lbf—Pounds of force.

DOC—Department of Commerce.

ASTM—American Society for Testing and Materials.

L-C, ZZ-C, DDD-C—These refer to certain Federal Government Specifications.

TABLE 1.—*Felt—Animal hair, type IA*

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	40.0-5 pct	50.0-5 pct	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	¼	⅜	FTMS 191, method 5030.
Flammability[1]	75 or less	75 or less	ASTM E 84-75 or 76a.
Either/or	Pass	Pass	DOC FF 1-70. DOC FF 2-70.

[1]The provisions of these standards relating to laundering of products containing fire-retardant treatments are inapplicable. Also, if cushion has a facing it shall be tested on both sides. Any need for diverging from the test procedures for flammability must first be authorized by HUD headquarters.

TABLE 2.—*Rubberized Jute and rubberized animal hair, type IB*

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	40.0-5 pct	50.0-5 pct	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	3/16	¼	FTMS 191, method 5030.
Flammability	The same tests and limits as in table 1.		

TABLE 3.—*Rippled cellular rubber, type IIA*

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	48.0-5 pct.	64.0-5 pct.	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	0.30	0.40	FTMS 601, method [1]12031, ASTM D [1]1055.
CLD, Minimum, pounds per square inch, 25 pct. deflection.	0.615	0.875	FTMS 601, method [2]12151.
Compression set, maximum, percent, 50 pct deflection.	15	15	FTMS 601, method [2]2131.
Tensile strength, minimum, pounds femto.	8	8	FTMS 191, method 5100.
Flammability	The same tests and limits as in table 1.		

[1]Use a minimum 4 by 4 in sample, skin face down and a light thin flat sheet covering entire sample. Use dial type micrometer of type mentioned in ASTM D 1055 to check thickness, allowing for thickness of flat sheet.

[2]Test specimen shall be a 2 by 2 in portion of test unit with facing, with plates larger than specimen.

[3]Test specimen shall be a 2 by 2 in portion of test unit, with facing. Sample shall be tested for 22 hr. at 70° ± 1° C. (158° ± 1.8° F), calculate as loss/original thickness, times 100. If calculated as loss/original deflection, the maximum percentage allowable for class 1 and 2 is 30 pct.

TABLE 4.—*Cellular rubber—flat sponge, type IIB*

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	56.0-5 pct.	64.0-5 pct.	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	0.230± .020	0.240± .020	FTMS 601, method [1]12031, ASTM D [1]1055.
CLD, minimum, pounds per square inch, 25 pct deflection.	0.75	1.5	FTMS 601, method [2]12151.
Compression set, maximum, percent, 50 pct deflection.	10	10	FTMS 601, method [2]12131.
Tensile strength, minimum, pound femto.	8.0	8.0	FTMS 191, method 5100.
Flammability	The same tests and limits as in table 1.		

[1]Test as for type IIA.

[2]Test as for type IIA.

[3]Test as for type IIA. If calculated as loss/original deflection the maximum percentage allowable for class 1 and 2 is 20 pct.

TABLE 5.—*Foam cellular rubber, type IIC*

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	38.0-5 pct.	46.0-5 pct.	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	¼	¼	FTMS 601, method [1]12031, ASTM D [1]1055.
CLD, minimum, pounds per square inch, 25 pct deflection.	1.0	2.0	FTMS 601, method [2]12151.
Compression set maximum, percent, 50 pct deflection.	15.0	15.0	FTMS 601, method [2]12131.
Tensile strength, minimum, pound femto.	8.0	8.0	FTMS 191, method 5100.
Flammability	The same tests and limits as in table 1.		

[1]Test as for type IIA.

[2]Test as for type IIA.

[3]Test as for type IIA. If calculated as loss/original deflection the maximum percentage allowable for class 1 and 2 is 30 pct.

TABLE 6.—*Prime urethane, type IIIA*

Characteristic	Class 1	Class 2	Test requirements
Urethane polymer weight, minimum, pound per cubic foot[1].	2.2-5 pct	2.7-5 pct	ASTM D 3574
Thickness, minimum, inches.	⅜	⅜	ASTM D 3574
CLD, minimum, pounds per square inch[2]:			
25 pct deflection	0.3	0.5	ASTM D [3]3574
65 pct deflection	0.7	1.0	
75 pct deflection	0.9	1.8	
Compression set, maximum, percent, 50 pct deflection.	15.0	15.0	ASTM D 3574
Tensile strength, minimum, pounds per square inch[4].	10.0	10.0	ASTM D 3574
Elongation, minimum, percent.	100	100	ASTM D 3574
Fatigue, procedure A, height loss maximum, percent.	5.0	5.0	ASTM D 3574
Load deflection loss, maximum, percent.	25.0	25.0	ASTM D 3574
Steam autoclave test, compression set, maximum, percent.	20	20	ASTM D 3574
Flammability	The same tests and limits as in table 1.		

[1]Apparent weight will be corrected to urethane polymer weight by performing the following test: Ash content, percent, as determined in ASTM D 297, subtracted from 100 pct, and multiplied by apparent weight, shall equal the minimum values listed in the above tables.

[2]Grades having a convoluted undersurface may read lower at 25 pct deflection but will exceed specifications at 65 pct deflection. Test against flat surface. All tests shall be without facing. If need be, stack specimens to 1 in before testing for 65 pct and 75 pct deflections.

[3]Test specimen shall be a 2 by 2 in portion of test unit, with plates larger than specimen.

[4]Test performed on samples without facing.

TABLE 7.—*Densified prime urethane, type IIIB*

Characteristic	Class 1	Class 2	Test requirements
Urethane polymer weight, minimum, pounds/cubic foot [1].	2.2-5 pct.	3.0-5 pct.	ASTM D 297
Thickness, minimum, inches.	0.313	0.25	ASTM D 3574
CLD, mimimum, pounds per square inch [2]			
25 pct deflection..	0.40	0.44	ASTM D 3574
65 pct deflection..	1.10	1.30	
Compression set, maximum, percent, 50 pct deflection.	10	10	ASTM D 3574
Tensile strength, minimum, pounds per square inch.	17	20	ASTM D 3574
Elongation, minimum, percent.	100	100	ASTM D 3574
Flammability.....	The same tests and limits as in table 1.		

[1] Apparent weight will be corrected to urethane polymer weight by performing the following test: Ash content, percent, as determined in ASTM D 297, subtracted from 100 pct, and multiplied by apparent weight, shall equal the minimum values listed in the above table.

[2] Grades having a convoluted undersurface may read lower at 25 pct deflection, but will exceed specifications at 65 pct deflection. Test against flat surface. Tests shall be without facing.

TABLE 8.—*Graft polyol-based urethane, type IIIC*

Characteristic	Class 1	Class 2	Test requirements
Urethane polymer weight, minimum, pounds per cubic foot [1].	2.2-5 pct	2.7-5 pct	ASTM D 297
Thickness, minimum inches.	0.375	0.25	ASTM D 3574
CLD, minimum, pounds per square inch [2]:			
25 pct deflection..	0.40	0.60	ASTM D 3574
65pct deflection...	1.10	1.40	
Compression set maximum, percent, 50 pct deflection.	15	15	ASTM D 3574
Tensile strength, minimum, pounds per square inch [3].	12	17	ASTM D 3574
Elongation, minimum, percent [3].	100	100	ASTM D 3574
Flammability.....	The same tests and limits as in table 1.		

[1] Apparent weight will be corrected to urethane polymer weight by performing the following test: Ash content, percent, as determined in ASTM D 297, subtracted from 100 pct, and multipled by apparent weight, shall equal the minimum values listed in the above table.

[2] Grades having a convoluted undersurface may read lower at 25 pct deflection but will exceed specifications at 65 pct deflection.

[3] Tests performed on samples without facing.

TABLE 9.—*Bonded urethane, type IIID*

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, pounds per cubic feet.	5.5-5 pct	6.5-5 pct	L-C-001369.
Thickness, minimum, inches.	⅜	⅜	L-C-001369.[1]
CLD, minimum, pounds per square inch [2]:			
.....			L-C-001369.
25 pct deflection..	0.8	1.0	
65 pct deflection..	4.0	5.0	
75 pct deflection..	8.0	11.0	

TABLE 9.—*Bonded urethane, type IIID*—Continued

Characteristic	Class 1	Class 2	Test requirements
Compression set, maximum, percent, 50 pct deflection.	15.0	15.0	L-C-001369.
Tensile strength, minimum, pounds per square inch [3].	5.0	7.0	L-C-001369.
Elongation, minimum, percent [3].	45.0	45.0	ASTM D 3574.
Particle size, inches [4]..	⅛	⅛	L-C-001369.
Debris.....	1 pct	1 pct	See text.
Flammability.....	The same tests and limits as in table 1.		

[1] For increased thickness the same thickness-to-weight ratios shall be maintained.

[2] Grades having a convoluted undersurface may read lower at 25 pct deflection but will exceed specifications at 65 pct deflection. Tests shall be without facing.

[3] Tests to be performed on cushion without facing.

[4] Particle size determinations are made with random samples of ground particles as given in L-C-001369.

SECTION 8.—FLAMMABILITY

All cushion specified in this bulletin shall meet either one of the referenced requirements shown below for approved installation and used in HUD mortgage insured properties and programs, including hospitals, nursing homes, housing for the elderly, and care type facilities.

1. DOC FF 1-70 or DOC FF 2-70 (Methenamine Pill Test) for use in single family and multifamily dwelling units, office buildings and general purpose buildings.

2. ASTM E 84 (Steiner Tunnel Test) cushion must pass this test with a flame spread of 75 or less. Same uses.

SECTION 9.—QUALITY ASSURANCE PROVISIONS

HUD accepts the above specified products on the stipulation that the manufacturer is assuring that adequate quality control is continuously exercised and that the cushion shall meet the minimum requirements of this bulletin. An independent laboratory acceptable to HUD shall perform all initial tests specified in the appropriate section. These tests shall be repeated once a year on each acceptable cushion line by that laboratory or another laboratory acceptable to HUD to assure continued quality control.

The manufacturer's name and the name of the laboratory conducting the tests, together with the initial test data, shall be on record at HUD, Office of Assistant Secretary for Housing, Office of Technical Support, Architecture and Engineering Division (A&E Division). Along with the data, the laboratory report shall include a statement that the products tested meet the requirements of this bulletin. Annual reporting is required.

In addition to cushion product meeting the specified requirements and test criteria for each respective type, they must conform to the minimum manufacturing quality control requirements specified below. Nonconformity will be determined by visual inspection of a representative sample of a lot of cushion by the manufacturer or his designated laboratory. HUD/FHA reserves the right to make or arrange for spot checks at any time to determine whether any cushion product is meeting the qualifications set forth herein. A manufacturer may not certify that his cushion meets the requirements of this bulletin unless he agrees to the principle of spot checking.

For purposes of quality assurance, a lot shall consist of 100 units or 100 lineal yards so that 1 unit shall consist of 1 lineal yard. Five randomly selected non-contiguous units from one lot from each shift shall be subjected to a non-destructive visual examination for defects 4, 5, 6, 7, and 8 as provided below. The entire lot shall be checked for requirements other than specific defects, that is 1, 2, 3, 9, 10, 11, and 12.

All carpet cushion shall meet the provisions below:

1. Length—1 percent allowance when length is specified.
2. Width—1 inch.
3. Weight—If weight exceeds 5 percent this shall not be deemed a defect.
4. No cuts, holes, tears more than ½" any measurement.
5. Lumps, high spots, low spots—none.
6. Thin or weak spots—none.
7. Imbedded or protruding foreign matter—none.
8. Seams—intact and smooth.
9. Edges—straight, parallel, square.
10. Surfaces—flat and parallel.
11. Facing—as specified, must cover 98 percent of surface area, be non-tacky, have no loose areas, and be non-peeling.
12. Objectionable odors—none.

NOTE.—Vacuum packed cushion shall be unrolled and left in a relaxed state for 24 hours before length and width determinations are made.

APPENDIX.—CONVERSION, METRIC AND SI UNITS

As an aid in correlating U.S. customary units to metric units, conversion factors for units in this bulletin follow. They are in accordance with the International System of Units (abbreviated SI).

1 inch=2.54 centimeters.
1 ounce=28.35 grams.
1 pound (mass)=453.6 grams.
1 pound (force)=4.448 newtons.
1 square yard=0.8361 square meter.
1 cubic foot=0.02832 cubic meter.
1 pound force per inch=175.1 newtons per meter.
1 pound per square inch (psi)=6895 kilopascals.
1 gram per square inch=15.20 pascals.
1 ounce per square yard=33.91 grams per square meter.
1 pound per cubic foot=16.02 kilograms per cubic meter.

$T_C=(t_F-32)1.8$

where t_C=temperature in degrees Celsius.

where t_F=temperature in degrees Fahrenheit.

CROSS REFERENCE TO THE 3 TYPES OF CUSHION

Type and subclass	Page location in bulletin: Description (sec. 6)	Page location in bulletin: Requirements (sec. 7)	Name of cushion
I.....	6	.....	Felt.
IA.....	6	13	Animal hair.
IB.....	7	13	Rubberized jute and rubberized animal hair.
II.....	8	.....	Cellular rubber.
IIA.....	8	14	Rippled.
IIB.....	8	15	Flat sponge.
IIC.....	9	16	Foam rubber.

CROSS REFERENCE TO THE 3 TYPES OF CUSHION—Continued

Type and subclass	Page location in bulletin: Description (sec. 6)	Page location in bulletin: Requirements (sec. 7)	Name of cushion
III	9		Urethane foam.
IIIA	9	17	Prime urethane.
IIIB	10	19	Densified prime urethane.
IIIC	10	20	Graft polyol-based urethane.
IIID	11	21	Bonded urethane.

[FR Doc. 78-2457 Filed 1-30-78; 8:45 am]

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

INDIANA

Request for Comments

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Additional time to comment on petition for withdrawal of approval.

SUMMARY: On Friday, December 23, 1977, notice was published in the FEDERAL REGISTER (42 FR 64464), in which the agency requested public comment on whether the Assistant Secretary of Labor for Occupational Safety and Health should accept or deny, in whole or in part, a petition by the Indiana AFL-CIO to withdraw approval of the Indiana State Plan for the development and enforcement of State occupational safety and health standards. Several written requests have been received for an additional comment period. In response to these requests, an additional period of 30 days from publication of this notice is deemed reasonable and adequate to permit the submission of additional comments.

DATES: Comments must be submitted on or before March 2, 1978.

ADDRESS: Written comments and requests for an informal hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

John Domenic Smith, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-653-5373.

Signed at Washington, D.C., this 20th day of January, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-2393 Filed 1-30-78; 8:45 am]

[4510-26]

[29 CFR Part 1952]

SOUTH CAROLINA

Request for Comments

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Request for public comment.

SUMMARY: This notice requests public comment on whether the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) should accept or deny, in whole or in part, a petition by the Carolina Brown Lung Association to withdraw approval of the South Carolina State Plan for the development and enforcement of State occupational safety and health standards.

DATE: Comments and requests for hearing should be submitted by March 2, 1978.

ADDRESS: Written comments and requests for an informal hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Barbara Bryant, Project Officer, Office of State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 12, 1977, the Assistant Secretary received a petition from the Carolina Brown Lung Association, signed by Woodrow Clark, the Association's president. The petition requests the Assistant Secretary, pursuant to 29 CFR Part 1955, to withdraw approval of the South Carolina State Plan. The petition specifies several reasons for withdrawal of approval, and requests that the Assistant Secretary hold a public hearing on the petition.

The South Carolina State plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) (hereinafter called the Act), as a developmental plan on November 30, 1972 (37 FR 25933), and was certified under 29 CFR 1902.34 to have complied with all developmental steps on August 3, 1976 (41 FR 32424). It is described at 29 CFR Part 1952 Subpart C.

INFORMATION REQUESTED

The petition alleges four general areas where the South Carolina Plan is deficient.

(1) The petition alleges that no cotton dust cases have been tried in the State even though there have been numerous citations, and that this situation is caused in part by the State's reluctance to expend funds for expert witnesses. In addition, considering the large portion of South Carolinians employed in the textile industry, an insufficient number of inspections have been conducted despite the fact that the State has committed itself to treating cotton dust as a high health hazard. The petition also alleges that cotton dust exposure has not been considered a high hazard area and that advance notice may have been improperly given to employers prior to textile mill inspections.

(2) The petition alleges that other enforcement deficiencies exist including: missing violations during inspections, discussing apparent violations with employers but not citing for them, delaying inspections on health referrals for over two months and not giving higher hazard referrals greater priority, failing to properly classify violations as serious, and devoting a disproportionately large amount of resources into inspecting low hazard areas.

(3) The petition alleges that deficiencies exist in the State's Review and Appeal System. These include a tendency for hearing examiners to reduce penalties in most contested cases, the tendency for the State to substantially reduce penalties as a result of informal conferences, the excessive length of time for the completion of the formal review process, and the failure of the State to follow its procedures for petitions for modification of abatement periods.

(4) The petition alleges that insufficient resources are allocated to employee education programs, with eight times more time spent on employer education, and that the employee training taking place is only in low priority industries.

Comment is requested on any or all of the above four areas, both as to the validity of the allegations, and whether, if true, the allegations are cause for withdrawal under section 18 of the Act as set out in 29 CFR 1955.3(a)(3).

AVAILABILITY OF THE PETITION AND PUBLIC SUBMISSIONS FOR INSPECTION AND COPYING

A copy of the petition and all public comments and requests may be in-

spected and copied during normal business hours at the Office of the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; at the Office of the Regional Administrator, Occupational Safety and Health Administration, Suite 587, 1375 Peachtree Street NE., Atlanta, Ga. 30309; and at the Office of the Area Director, Occupational Safety and Health Administration. 2711 Middleburg Drive, Suite 102, Kittrell Center, Columbia, S.C. 29205.

If it is determined that substantial objections which warrent public discussion have been filed, an informal hearing on the petition may be held. All relevant comments, arguments and requests submitted in accordance with this notice will be considered and a decision to grant or deny the petition will thereafter be issued.

Signed at Washington, D.C., this 20th day of January 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-2396 Filed 1-30-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 849-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

San Diego County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the San Diego County Air Pollution Control District's (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to March 2, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn.: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, Calif. 92123.
California Air Resources Board, 1709—11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, EPA Library—Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on October 13, 1977:

REGULATION I—GENERAL PROVISIONS

Rule 2—Definitions.
Rule 3—Standard conditions.

REGULATION II—PERMITS

Rule 19.2—Continuous emission monitoring requirements.

REGULATION III—FEES

Rule 40—Permit fees.
Rule 42—Hearing board fees.

REGULATION IV—PROHIBITIONS

Rule 50—Visible emissions.
Rule 52—Particulate matter.
Rule 53—Specific contaminants.
Rule 54—Dust and fumes.
Rule 55—Exceptions.
Rule 61—Storage of volatile organic compounds.
Rule 61.0—Definitions.
Rule 61.1—Receiving and storing volatile organic compounds at bulk plants and bulk terminals.
Rule 61.2—Transfer of volatile organic compounds into mobile transport tanks.
Rule 61.3—Transfer of volatile organic compounds into stationary storage tanks.
Rule 61.4—Transfer of volatile organic compounds into vehicular fuel tanks.
Rule 61.5—Visible emission standards for vapor control systems.
Rule 62—Sulfur content of fuels.
Rule 63—Volatile organic compound loading facilities.
Rule 64—Reduction of animal matter.
Rule 65—Volatile organic compound water separators.
Rule 66—Organic solvents.
Rule 68—Fuel burning equipment—oxides of nitrogen.
Rule 71—Abrasive blasting.

REGULATION V—PROCEDURE BEFORE THE HEARING BOARD

Rule 76—Filing petitions.
Rule 77—Contents of petitions.
Rule 85—Notice of hearing.
Rule 95—Requirement for hearing.
Rule 96—Compliance schedules.

REGULATION VI—ORCHARD OR CITRUS GROVE HEATERS

Rule 101—Definitions.
Rule 102—Open fires, western section.
Rule 103—Open fires, eastern section.
Rule 104—Further exceptions.
Rule 109—Temporary suspension of permits.
Rule 113—Plan for open burning control in San Diego County.

REGULATION IX—PUBLIC RECORDS

Rule 177—Inspection of public records.

In addition, regulations were submitted concerning new source review and emergency episodes. These regulations will be considered in separate FEDERAL REGISTER actions.

The State also submitted regulations concerning New Source Performance Standards (NSPS) on October 13, 1977, and also on November 4, 1977. Regulations concerning National Emission Standards for Hazardous Air Pollutants (NESHAPS) were submitted on November 4, 1977. These NSPS and NESHAPS regulations implement Sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under Section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the APCD under the appropriate provisions of sections 111 and 112. Announcement of such delegation will appear in a separate FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received by March 2, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: January 6, 1978.

PAUL DEFALCO,
Regional Administrator.

[FR Doc. 78-2698 Filed 1-30-78; 8:45 am]

[6560-01]

[40 CFR Part 730]

TSCA INTERAGENCY TESTING COMMITTEE

Proposed Rule for Health and Safety Study Reporting; Submittal of Studies of Substances Recommended for Priority Consideration

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of opportunity for comment.

SUMMARY: Section 4 of the Toxic Substances Control Act (TSCA) authorizes the Environmental Protection Agency (EPA) to issue testing rules for chemical substances. On October 5, 1977, the Interagency Testing Committee (ITC), established under section 4(e) of TSCA, recommended four substances and six categories of substances for priority consideration in the issuance of such rules: alkyl epoxides, alkyl phthalates, chlorinated benzenes, chlorinated paraffins, chloromethane, cresols, hexachloro-1,3-butadiene, nitrobenzene, toluene, and xylenes. (See 42 FR 55026, October 12, 1977.) This rule, proposed pursuant to TSCA section 8(d), would require manufacturers, processors, and distributors in commerce to submit health and safety studies relating to the substances and areas of study recommended by the ITC. The Administrator will use these studies to assess the need for and character of testing rules to be promulgated under section 4(a)—or, where indicated, the need for and character of control regulations under section 6.

In addition, the provisions of this proposed rule will probably be used for subsequent ITC recommendations and for other chemicals of interest to the Agency.

DATES: Comments on this proposed rule must be received on or before April 3, 1978.

ADDRESS: Comments should be addressed to: Environmental Protection Agency, Office of Toxic Substances (WH-557), Federal Register Section, 401 M Street SW., Washington, D.C. 20460, Attn.: Ms. Joan Urquhart. All comments should be filed in triplicate and bear the notation 084001. All written comments filed pursuant to this notice will be available for public inspection at that office from 8:30 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Georjean Adams, Coordination and Procedures Group, Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 202-426-4790.

SUPPLEMENTAL INFORMATION: The purpose of this proposed rule is to acquire existing health and safety studies on the six areas of study in the list of four substances and six categories of substances recommended for priority consideration for the issuance of testing rules by the TSCA section 4(e) Interagency Testing Committee on October 5, 1977. (See 42 FR 55026, October 12, 1977.)

Subsection 4(a) of the Toxic Substances Control Act (90 Stat. 2003, 15 U.S.C. 2601, et seq.) authorizes the Administrator, if he makes certain findings, to promulgate rules requiring testing to be conducted on a chemical substance or mixture. Such testing would develop data with respect to the health and environmental effects for which there are insufficient data and experience and which are relevant to a determination that the substance or mixture presents an unreasonable risk of injury to health or the environment. Subsection 4(e) established an Interagency Testing Committee to recommend chemicals for priority consideration for such testing rules. The Administrator must either initiate subsection 4(a) rulemaking proceedings in accordance with ITC recommendations within 1 year of receipt or publish his reasons for not doing so. The first ITC recommendations were presented to EPA on October 5, 1977. In order to ascertain whether, and if so what, testing rules are necessary EPA will be collecting information via literature searches, from other Federal agencies, and through its own research. Another important source of such information is the health and safety studies conducted by or for industry. EPA intends to obtain these studies under the authority of subsection 8(d).

Section 8(d) authorizes EPA to require any person who manufactures, processes, or distributes in commerce any chemical to submit lists and copies of health and safety studies with respect to that chemical. Such studies may include those conducted or initiated by or for, known to, or reasonably ascertainable by such person. This proposed rule, however, would apply to only (1) studies conducted or initiated by or for manufacturers, processors, and distributors of the chemical substances designated by the ITC, and (2) any other pertinent studies of those chemicals contained or referenced in such persons' files.

Under § 730.5 of the proposed rule, manufacturers, processors, and distributors would be required to submit lists of all relevant studies within 60 days of the effective date of the rule. In addition, the rule would require such persons to submit copies of listed unpublished studies in their possession. If listed studies are not in the possession of those who submit lists, section 8(d) authorizes EPA to require any person possessing such study to submit it to the Agency. If a listed study is not otherwise available, the Agency may exercise this authority. Thus universities, independent laboratories, private and public organizations, and individuals who have possession of listed studies may be required to submit them. In such event, EPA will follow the procedures in § 730.8 for contacting such persons and requiring the submittals.

For the purposes of this rule, EPA is requiring the submission of lists of health and safety studies only from juridical persons; i.e., "persons" established by law such as companies, associations and other entities that manufacture, process, or distribute chemicals. If a juridical person violates a provision of this rule, its employees may be held liable to the extent they are responsible for causing such violation. Persons who "manufacture or process for commercial purposes" include those who use a chemical for product research and development, for test marketing purposes, or solely for their own use. In addition, TSCA defines an importer as a manufacturer. Therefore, companies that import a chemical substance or mixture in bulk form, including in cans, bottles, drums, barrels, packages, tanks, bags and other containers, are also subject to this rule.

The health and safety studies subject to this reporting requirement are those relating to the six areas recommended by the ITC: carcinogenicity, mutagenicity, teratogenicity, other chronic effects, environmental effects, and epidemiological studies. These categories are to be interpreted broadly to include all relevant studies on each chemical substance or any mixture containing that substance. For example, "other chronic effects" refers to all studies of repeated dose application over time, including sub-chronic effects; "environmental effects" includes both chemical fate and persistence, as well as ecological effects on plants and animals; and "epidemiology studies" include those for animals (epizootiology) as well as humans.

EPA encourages all persons to submit any information which could assist in the development of testing rules for these chemicals, including any planned or initiated studies. This will be helpful not only in deciding if testing is necessary, but also in determining the kind of testing to be done.

This proposed rule will probably serve as the model for obtaining health and safety studies on subsequent ITC recommendations and may also be used for other specific chemicals of interest to the Agency. Therefore, EPA encourages all interested parties to comment on the general provisions of the rule described below.

The Administrator proposes to amend 40 CFR Chapter 1, Subchapter R, by adding a new Part 730. This Part would require manufacturers, processors, and distributors of the substances recommended by the ITC to submit (1) lists of pertinent health and safety studies contained or referenced in company files and (2) copies of those studies which are in the possession of the company. However, EPA would not require submission of (1) lists or copies of those studies which are indexed in designated data systems or (2) copies of published studies or

studies which have been submitted to any Federal agency without a claim of confidentiality. Any person possessing a study which has been listed by, but is not in the possession of, a manufacturer, processor, or distributor may be required by EPA to submit a copy. All persons submitting studies may claim confidentiality; however, TSCA section 14(b) only provides confidentiality for that portion of health and safety study data that discloses processes or, in the case of mixtures, percent composition.

NOTE.—EPA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement under Executive Order No. 11949 and OMB Circular A-107.

Dated: January 20, 1978.

DOUGLAS M. COSTLE,
Administrator.

40 CFR 730 is added as follows:

PART 730—HEALTH AND SAFETY STUDY REPORTING

Sec.
730.1 Definitions.
730.2 Scope and compliance.
730.3 Persons who must report.
730.4 Substances and effects to which this part applies.
730.5 Listing and submission requirements.
730.6 Schedule for submission of studies.
730.7 Confidentiality claims.
730.8 Persons in possession of listed studies.

AUTHORITY: Subsec. 8(d), Toxic Substances Control Act (90 Stat. 2003, 15 U.S.C. 2601 et. seq.)

§ 730.1 Definitions.

The definitions as set forth in the Toxic Substances Control Act Section 3 apply for this part. In addition, the following definitions are provided for the purposes of this part:

(a) "Manufacture or process" means to manufacture or process for commercial purposes, which includes (1) for distribution in commerce, including for test marketing purposes; (2) for use as a catalyst or intermediate; (3) for the exclusive use by the manufacturer or processor; or (4) for product research or development.

(b) "Person" means any natural or juridical person. A "juridical person" includes any firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal Government.

(c) "Study" means any report of a formal investigation which utilizes defined methodologies and yields preliminary or final results, and includes underlying data and information.

(d) "Substance" means a chemical substance or mixture as defined above.

§ 730.2 Scope and compliance.

(a) This part implements subsection 8(d) of the Toxic Substances Control Act (TSCA) to obtain health and safety studies associated with the four substances and six categories of substances and areas of study recommended by the Interagency Testing Committee on October 5, 1977, for priority consideration for testing rules under subsection 4(e) of TSCA (42 FR 55026, October 12, 1977).

(b) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse timely to submit information required under this part. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Under section 17, the Government may seek judicial relief to compel submittal of section 8(d) information and to otherwise restrain any violation of this part.

§ 730.3 Persons who must report.

(a) Persons subject to this part are all juridical persons who have manufactured, processed or distributed in commerce, or have proposed to manufacture, process or distribute in commerce since January 1, 1977, one or more of the substances or categories of substances listed in § 730.4; this includes persons who manufacture, process, or distribute these chemicals on a seasonal or batch basis, as well as those who hold themselves out as being manufacturers, processors, or distributors.

(b) All persons, as defined in § 730.1(b), are subject to the requirements of § 730.8.

§ 730.4 Substances and effects to which this part applies.

EPA requires submission of health and safety studies relating to those areas listed under each respective substance or category of substances listed below:

(a) Alkyl Epoxides—including all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups:
(1) Carcinogenicity.
(2) Mutagenicity.
(3) Teratogenicity.
(4) Other chronic effects.
(5) Environmental effects.
(6) Epidemiological studies.

(b) Alkyl Phthalates—all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid):
(1) Environmental effects.

(c) Chlorinated Benzenes—monochlorobenzene (CAS No. 108-90-7), ortho-, meta- and para-dichlorobenzene (CAS No. 95-50-1, 541-73-1, and 106-46-7):
(1) Carcinogenicity.
(2) Mutagenicity.
(3) Teratogenicity.
(4) Other chronic effects.
(5) Environmental effects.
(6) Epidemiological studies.

(d) Chlorinated Paraffins—chlorinated paraffin oils and chlorinated paraffin waxes, including those with chlorine content of 35 percent through 64 percent by weight:
(1) Carcinogenicity.
(2) Mutagenicity.
(3) Teratogenicity.
(4) Other chronic effects.
(5) Environmental effects.

(e) Chloromethane—(CAS No. 74-87-3):
(1) Carcinogenicity.
(2) Mutagenicity.
(3) Teratogenicity.
(4) Other chronic effects.

(f) Cresols—ortho-, meta- and paracresol (CAS Nos. 95-48-7, 108-39-4, and 106-44-5):
(1) Carcinogenicity.
(2) Mutagenicity.
(3) Teratogenicity.
(4) Other chronic effects.
(5) Environmental effects.

(g) Hexachloro-1,3-butadiene—(CAS No. 87-68-3):
(1) Environmental effects.

(h) Nitrobenzene—(CAS No. 98-95-3):
(1) Carcinogenicity.
(2) Mutagenicity.
(3) Environmental effects.

(i) Toluene—(CAS No. 108-88-3):
(1) Carcinogenicity.
(2) Teratogenicity.
(3) Other chronic effects.
(4) Epidemiological studies.

(j) Xylenes—ortho-, meta- and paraxylene (CAS No. 95-47-6, 108-38-3, and 106-42-3):
(1) Mutagenicity.
(2) Teratogenicity.

§ 730.5 Listing and submission requirements.

(a) Except as provided in subparagraph (b), persons subject to this part shall submit to the address in paragraph (d):

(1) Lists of health and safety studies relating to the substances and areas set forth in § 730.4 conducted or initiated by or for, or contained or referenced in letters or memoranda in the files of such persons, and

(2) Completes copies of any such health and safety studies for which either preliminary or final results have been reported and that are in the possession of such persons.

(b) Persons subject to this part may, but are not required to, submit:

(1) Copies of studies which have been either

(i) Published in the scientific literature, or

(ii) Submitted to any Federal agency with no claims of confidentiality; or

(2) Either lists or copies of any studies which, on the effective date of this rule, appear in the following:

(i) Agricola,

(ii) Biological Abstracts,

(iii) Chemical Abstracts,
(iv) Commonwealth Agricultural Bureau Abstracts,
(v) Defense Documentation Center,
(vi) Dissertation Abstracts,
(vii) Environmental Periodicals Bibliography,
(viii) Index Medicus,
(ix) National Technical Information Service, or
(x) Pollution Abstracts.

(c) The lists of health and safety studies shall be grouped by chemical and alphabetized by author and shall include:

(1) The title of each study for which a copy is submitted pursuant to § 730.5(a)(2).

(2) The literature citation (including the following sequence of information, as appropriate: author, title, unabbreviated name of the periodical, date of publication, volume number, pages occupied by the article, series, edition, city of publication, and publisher's name) for published studies, except as exempted in paragraph (b)(2), of this section,

(3) The title, date, agency name, and any other appropriate identification for studies submitted to any Federal agency, and

(4) The title, source and identity of any person known to have possession of unpublished studies that are referenced but not contained in the files of the person submitting the list.

(d) Lists and copies of health and safety studies should be submitted to: Office of Toxic Substances (TS-788), Chemical Information Division, 401 M Street SW., Washington, D.C. 20460.

§ 730.6 Schedule for submission of studies.

(a) Submissions under this part shall be received by EPA on or before 60 days after the effective date of this rule.

(b) Studies subject to this part which yield preliminary or final results after the effective date of this part shall be submitted to EPA within 30 days of their availability until either (1) rules under section 4(a) of TSCA have been promulgated for the substance, or (2) the Administrator has published in the FEDERAL REGISTER his reason for not initiating section 4(a) rulemaking for that substance.

§ 730.7 Confidentiality claims.

(a) Respondents may assert a business confidentiality claim covering all or part of the health and safety studies submitted under this part. Any information covered by a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in part 2 of this Title (41 FR 36902, September 1, 1976).

(b) If no claim accompanies the health and safety studies at the time they are submitted to EPA the studies will be placed in an open file available to the public without further notice to the respondent.

(c) (1) Section 14(b) of the Toxic Substances Control Act states that EPA may not withhold from disclosure, on the grounds that they are confidential, health and safety studies, except to the extent that disclosure of data from such studies would disclose

(i) Processes used in the manufacturing or processing of a chemical substance or mixture, or

(ii) The portion of a mixture comprised by any of the chemical substances in the mixture.

(2) EPA will deny any claims of confidentiality for data from health and safety studies that exceed the limits stated in (c)(1) (i) and (ii).

(d) To assert a claim of confidentiality for data contained in a health and safety study, the respondent must submit two copies of the study.

(1) One copy of the study must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential as specifically as possible by marking the information on each page with a label such as "confidential," "proprietary," or "trade secret."

(2) If some data in the health and safety study are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.

(3) The first copy of the health and safety study will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(4) Failure to furnish a second copy of the health and safety study when information is claimed as confidential in the first copy will be considered a waiver of the claim of confidentiality, and EPA will place the first copy in the public file without further notice to the respondent.

§ 730.8 Persons in possession of listed studies.

(a) Any person who possesses an unpublished study that is listed by, but not in the possession of a person submitting a list according to the requirements of § 730.5, above, must, if requested by the Administrator or his designee, submit a copy to EPA.

(b) In requiring any person to submit a copy of a study under (a), EPA shall notify the person in writing of the requirement.

(1) Such written notification shall include:

(i) A copy of this part;

(ii) A description of the requested study;

(iii) The name, address, and telephone number of the person to whom the study should be submitted; and

(iv) The date by which the study should be submitted, which date shall be no sooner than 30 days after the person's receipt of the notification.

(2) The written notification shall be mailed by certified mail.

[FR Doc. 78-2699 Filed 1-30-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-25; RM-2920]

FM BROADCAST STATION IN LEWISTON, IDAHO

Proposed Changes in the Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking and Order To Show Cause.

SUMMARY: Action taken herein proposes the assignment of a Class C FM channel to Lewiston, Idaho, in response to a request by KRLC, Inc. In addition, another Class C channel is being proposed to the same commodity as a substitute for the presently assigned Class A FM channel. An Order to Show Cause is directed to the Class A licensee to show why its license should not be modified to operate on this Class C channel. Making both assignments would bring a second FM service to a substantial area and avoid the intermixture of classes of channels in Lewiston.

DATES: Comments must be filed on or before March 27, 1978, and reply comments on or before April 17, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

PROPOSED RULEMAKING AND ORDER TO SHOW CAUSE

Adopted: January 23, 1978.
Released: January 30, 1978.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Lewiston, Idaho), BC Docket No. 78-25, RM-2920.

1. *Petitioner, Proposal and Comments.* (a) Petition for rulemaking,[1] filed June 22, 1977, by KRLC, Inc. ("petitioner"), licensee of full-time AM Station KRLC, Lewiston, Idaho, proposing the assignment of FM Channel 295 to Lewiston, Idaho.

(b) The channel may be assigned without affecting any of the existing

[1] Public Notice of the petition was given on July 18, 1977 (Report No. 1064).

FM assignments in the Table. No responses were made to the proposal.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Lewiston is located 432 kilometers (270 miles) east of Portland, Oreg., and 136 kilometers (85 miles) south of Spokane, Wash.

(b) *Population.* Lewiston—26,068; Nez Perce County—30,376.[2]

(c) *Present Aural Services.* Lewiston presently receives local service from full-time AM Stations KOZE and KRLC, and Station KOZE-FM (Channel 244A). It also receives service from daytime-only AM Station KCLK and Station KCLK-FM at Clarkston, Wash., 2 miles from Lewiston. (Channel 231 is assigned to Lewiston, but is used by Station KCLK-FM at Clarkston.)

(d) *Economic Considerations.* Petitioner states that, according to the City of Lewiston Planning Department, Lewiston's population will increase to 37,020 by 1980. It points out that the area produces wheat, peas, and lentils in addition to having the largest cattle sales yard in the Pacific Northwest. It appears that the lumber industry plays a major role in the area economy employing persons working in lumber, plywood, logs and wood chips for export, and paper board for packing. Petitioner notes that the area has six banks with ten branches, four savings and loan associations with five branches and several credit unions, including one of the largest in the northwest. In support of its proposal, petitioner has also furnished information with respect to education, churches, medical facilities and transportation.

3. *Preclusion Studies.* Petitioner's engineering study indicates that forty-six communities of population greater than 1,000 would be precluded on one or more channels as a result of the assignment of Channel 295 to Lewiston. Twenty-six[3] of the precluded communities have no FM assignments. Of these twenty-six, four (McCall and St. Maries, Ida.; Polson, Mont.; and John Day, Ore.) have AM stations. Petitioner should indicate in its comments whether alternate channels are available for assignment to the communities in the precluded area listed in footnote 3.

4. *Roanoke Rapids-Anamosa Study.* Petitioner's Roanoke Rapids-Anamosa showing assumes a service contour based on terrain considerations. It states that second FM service would be provided to 12,600 persons in an 8,400 square kilometer (3,200 square miles) area. No first FM service would be provided. Petitioner also submits a map showing the extent of existing AM service which appears to cover only a small part of the predicted second FM service area. This would indicate that the area where there would be a second service is roughly equivalent to where it would represent a nighttime aural service. Since populations is not evenly distributed through the projected service area, the petitioner should provide figures for the area and population of second nighttime aural service.

5. *Comments.* Because of the relatively small size of this community, it would not normally warrant three assignments under our population criteria. However, exceptions have been made when the assignment would result in a large first or second FM service. Petitioner shows that a second FM service would be provided to 12,600 persons in an 8,400 square kilometer (3,200 square miles) area. In addition, the fact is that this would bring only the second FM station to Lewiston, as one of its channels is used elsewhere. With this in mind we think consideration of the proposal is warranted.

6. Although the classes of channels listed at Lewiston are intermixed, there is no need for this situation to remain. The situation is similar to one dealt with in a recent Commission Report and Order involving Mitchell, S.D.[4] In that case there was an existing Class A operation and a Class C proposal. The Commission decided to remove the Class A assignment and to assign two Class C channels even though the Class A license holder objected. The object of the Order was to avoid intermixture of the classes of assignments and to provide service to an area receiving relatively little service. In the present case, no oppositions were received from Station KOZE-FM (the current licensee of the Class A channel in Lewiston). However, in order to ascertain whether the existing licensee is agreeable to the proposal to follow the Mitchell precedent which involves assigning two Class C channels, deleting the Class A channel, and modification of the license of the Class A licensee to specify one of the Class C channels, the Order To Show Cause herein is adopted to determine whether Station KOZE-FM consents to or is opposed to the proposed change of its channel assignment. In so doing the Commission is aware that no insubstantial expense of converting from a Class to a Class C operation would be involved. Thus, if the licensee opposes such modification, its views will be weigh heavily in the Commission's consideration. Its general comments on the appropriateness of the proposal are also invited. In this regard we should point out that it would be entitled to reimbursement for the cost of changing channels but not for the improvement in its facilities. If it desired, a delay in the date of constructing such changed facilities could be arranged as it was in the Mitchell case.

7. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to the community below as follows:

City: Lewiston, Idaho.
Channel No.:
Present: 231, 244A.
Proposed: 231, 243, 295.

8. *It is ordered,* That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licensee of Station KOZE-FM, Lewiston, Idaho, shall show cause why its license should not be modified to specify operation on Channel 243 if the Commission determines that the public interest would best be served by adopting the proposed assignment.

9. Pursuant to Section 1.87 of the Commission's Rules and Regulations, the licensee of Station KOZE-FM, Lewiston, Idaho, may, not later than March 27, 1978, request that a hearing be held on the proposed modification. Pursuant to Section 1.87(f), if the right to request a hearing is waived, KOZE-FM may, not later than March 27, 1978, file a written statement showing with particularity why its license should not be modified as proposed in this Order to Show Cause. In this case, the Commission may call on KOZE-FM to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, KOZE-FM will be deemed to consent to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

10. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

11. Interested parties may file comments on or before March 27, 1978,

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

[3] Idaho: Pierce (pop. 1,218), Kaniah (1,307), McCall (1,758), Osburn (2,248), Mullen (1,279), Fruitland (1,576), Kellogg (3,811), Dalton Gardens (1,559), St. Maries (2,571), Hayden (1,285), Post Falls (2,371); Washington: Pomeroy (1,823), Cheney (6,358), Medical Lake (3,529), Ritzville (1,879), Davenport (1,363), Millwood (1,770); Montana: Plains (1,046), Ronan (1,347), Polson (2,464), Philipsburg (1,128); Oregon: Elgin (1,375), Union (1,531), Vale (1,448), Nyssa (2,620), John Day (1,566).

[4] 62 F.C.C. 2d 70 (1976); see also Gillette, Wyo., Docket No. 21119, 42 FR 47557 (1977).

and reply comments on or before April 17, 1978.

12. *It is further ordered,* That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to 4-K Radio Inc., Box 936, Lewiston, Idaho 83501, licensee of Station KOZE-FM, the party to whom the Order to Show Cause is directed.

For the Federal Communications Commission.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2632 Filed 1-30-78; 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.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 2]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1977 Through May 31, 1978), Rice and Peanuts

The CCC Monthly Sales List for the period June 1, 1977, through May 31, 1978, published at 42 FR 40945 is amended as follows:

1. Section 25 entitled Rice, Rough-Unrestricted Use Sales (F.O.B. Warehouse) is revised as follows:

The minimum price is the market price but not less than the formula price. Basis of sale is f.o.b. warehouse as is, or at buyer's option, basis outturn weights and grades. The formula price is 155 percent of the 1977 loan rate plus the applicable monthly markup shown in this section.

MONTHLY MARKUPS.—*Dollars per hundredweight*

1977:	
December	.15
1978:	
January	.25
February	.35
March	.45
April	.55
May	.65

2. Section 31 is added which reads as follows: Peanut Farmers Stock—Restricted Use Sales—Crushing or Export—(Segregation 1 lots).

1. The minimum price is the market price but not less than the formula price which is 100 percent of the 1977 crop price support value (prior to deduction for storage, handling and inspection) for the applicable location type and quality, plus a markup. On December 4, 1977, a markup will begin to accumulate at the rate of $1 per net ton per week (farmers stock basis).

2. Sales are made under announcement PR-1. When stocks are available, lot lists or invitations to bid will be issued by peanut associations for submission of competitive bids each Monday to the Producer Associations Division.

3. Permissible uses of the peanuts, which are listed in more detail in announcement PR-1, include the export of shelled peanuts, of any type, which grade U.S. Splits or U.S. No. 1 or better or "With Splits" grades as defined in Marketing Agreement for Peanuts No. 146, and the remaining kernels crushed domestically or exported for crushing if fragmented in accordance with PR-1.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Effective date: November 30, 1977, 2:30 p.m. (e.s.t.).

Signed at Washington, D.C., on January 25, 1978.

RAY FITZGERALD,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-2579 Filed 1-30-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARD

Pennsylvania Grain Inspection Area

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act, as amended October 21, 1976, and September 29, 1977 (7 U.S.C. 71 et seq.) (Act), the Federal Grain Inspection Service (FGIS) is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a State is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

Notice is hereby given that, on January 22, 1978, the FGIS will assume responsibility for providing official inspection and weighing services at those export elevators located in the area previously serviced by the Commerical Exchange of Philadelphia. The export elevators involved are the Girard Point Elevator, operated by the Tidewater Grain Co., and the Port Richmond Elevator Co., Inc., operated by the Bunge Corp.

In addition to these export elevators, FGIS will also be providing official non-export inspection and weighing services as requested from the area previously serviced by the Commercial Exchange of Philadelphia. These inspection and weighing services may be obtained by contacting the FGIS field office at 1002 U.S. Custom House, 2nd and Chestnut Streets, Philadelphia, Pa. 19106.

The official inspection agency designation of the Commercial Exchange of Philadelphia is canceled effective at the time of the FGIS takeover.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Effective date: This notice shall become effective upon publication.

Done in Washington, D.C., on January 25, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-2575 Filed 1-30-78; 8:45 am]

[3410-16]

Soil Conservation Service

BURNHAM CREEK WATERSHED, MINN.

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Burnham Creek Watershed, Polk County, Minn.

An assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention, erosion and sediment control, drainage, recreation, fish and wildlife. The planned works of improvement being investigated for possible inclusion in the plan include conservation land treatment, flood prevention reservoirs, channel work and fish and wildlife improvement.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316

North Robert Street, St. Paul, Minn. 55101; CML 612-725-7675.

Dated: January 23, 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.)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-2590 Filed 1-30-78; 8:45 am]

[3410-16]

TYLER WATERSHED, MINN.

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Tyler Watershed, Lincoln, Lyon, and Pipestone Counties, Minn.

An assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention, erosion and sediment control, drainage, recreation, fish and wildlife. The planned works of improvement being investigated for possible inclusion in the plan include conservation land treatment, multiple-purpose flood prevention-recreation reservoir, channel work, and wildlife water resource improvement.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minn. 55101; CML 612-725-7675.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: January 23, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-2591 Filed 1-30-78; 8:45 am]

[3410-05]

Office of the Secretary

PRIVACY ACT OF 1974

Deletion of Systems of Records

Notice is hereby given that the Department of Agriculture, in accordance with 5 U.S.C. 552(e) (4) and (11), proposes to delete a system of records which are not considered agency records because they are not under the control of the agency. The deleted system is USDA/ASCS-29, Supervisor's Notes on Employees. The system was initially established as a result of misinterpreting the Privacy Act requirements. The records within the system are uncirculated personal notes which are retained or discarded at the author's discretion. The system contains notes of supervisors observations and discussions with employees as they pertain to performance ratings, attendance, and behavior. These notes may be used by the Supervisor as a memory refresher at the time of performance ratings and nominations for awards. The Agency exercises no control or dominion over these records and therefore they are not considered to be Agency records within the meaning of the Privacy Act. The system notice was previously republished on September 30, 1977, FR 53199. The deletion will be effective January 1, 1978.

Signed at Washington, D.C., on January 25, 1978.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 78-2584 Filed 1-30-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 29411, 29412, and 30619]

AIR NAURU

Postponement of Hearing

Notice is hereby given that at the request of the applicant the hearing in the above-entitled matter now assigned to be held on February 22, 1978 (43 FR 1813, January 12, 1978) is hereby postponed to March 29, 1978 at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., January 25, 1978.

WILLIAM A. KANE, JR.,
Administrative Law Judge.

[FR Doc. 78-2694 Filed 1-30-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

ARIZONA STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00289. Applicant: Arizona State University, Tempe, Ariz. 85281. Article: Scanning Transmission Electron Microscope, Model HB5 and Accessories. Manufacturer: VG Microscopes, Ltd., United Kingdom. Intended use of article: The article is intended to be used to explore the applications of high resolution scanning transmission electron microscopy for the study of structures and defects of thin crystals and the configurations of small groups of atoms or single atoms on surfaces. It will then be modified and developed for a range of new operational modes which have shown theoretically to offer important new capabilities of a type not accessible to conventional transmission electron microscopy. A program of research on the study of biological specimens will include methods for the resolution of heavy atom labels on macromolecules, the study of chromosome structures and the development of methods for three-dimensional reconstruction of the structures of thicker specimens.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides operation in the scanning transmission electron mode at 100 kilovolts accelerating voltage with a guaranteed lattice resolution of 2.9 Angstroms. The National Bureau of Standards advises in its memorandum dated Decem-

ber 19, 1977, that: (1) The specifications of the article described above are pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Deparment of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2622 Filed 1-30-78; 8:45 am]

[3510-25]

CLARK UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00374. Applicant: Clark University, Department of Chemistry, Jeppson Laboratory, Worcester, Mass. 01610. Article: Nuclear Resonance Pulse Spectrometer, Model SXP 22/100. Manufacturer: Bruker, West Germany. Intended use of article: The article is intended to be used to study the following:

(a) Spin dynamics in one-dimensional Heisenberg systems with ^{1}H magnetic resonance.

(b) Enzyme structure and mechanism with ^{13}C and ^{19}F magnetic resonance.

(c) Biosynthetic pathways with ^{3}H magnetic resonance.

(d) Structure of natural products and compounds of biomedical significance with ^{1}H and ^{13}C magnetic resonance.

(e) Chain dynamics in synthetic polymers with ^{1}H, ^{13}C, and ^{19}F magnetic resonance.

(f) Conformational and dynamic aspects of biological macromolecules with ^{1}H, ^{13}C, and ^{19}F magnetic resonance.

(g) Dynamics and shielding of small solute molecules in aqueous medical with ^{1}H, ^{13}C, and ^{19}F magnetic resonance.

The article will also be used in the course Chemistry 300, "Research" by students studying for a Ph. D. or M.A. Undergraduates enrolled in Chemistry 214 "Special Topics" will also be using the article. Courses on the theory of magnetic resonance complementing the actual instruction and utilization of the instrument are also taught at the graduate student level in Chemistry 361 "Molecular Structure".

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for measuring T_{1rho}, the relaxation time in the rotating frame. The Department of Health, Education, and Welfare advises in its memorandum dated November 25, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended research, and (2) it knows of no domestic instrument that provides this pertinent capability.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2623 Filed 1-30-78; 8:45 am]

[3510-25]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00394. Applicant: National Radio Astronomy Observatory, Associated Univ., Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Repair of Varian Klystron Type VRB2113A30 SN 70443. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article is intended to be used as a phase local oscillator in a millimeter wave radio astronomy receiver used in conjunction with a microwave antenna to measure the intensity, polarization frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 80-110 gigahertz frequency range with 75 milliwatts guaranteed minimum output power. The National Bureau of Standards (NBS) advises in its memorandum dated December 16, 1977, that: (1) The capability of the article described above is pertinent to the applicant's research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2624 Filed 1-30-78; 8:45 am]

[3510-25]

SUNY—STONY BROOK

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-0383. Applicant: School of Dental Medicine—State Uni-

versity of New York at Stony Brook, Stony Brook, N.Y. 11794. Article: Gingival Crevicular Fluid Meter (Periotron). Manufacturer: Harco Electronics, Ltd., Canada. Intended use of article: The article is intended to be used to measure the degree of inflammation of gingival tissues during experiments conducted to reveal the effect of clinical dental procedures on gingival health. The article will also be used in clinical teaching in which dental students will be instructed how to use this tool to evaluate and monitor the suitability to periodontum of dental procedures that they perform in the clinic.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for the measurement of the gingival fluid quantity during treatment to avoid irritation. The Department of Health, Education, and Welfare advises in its memorandum dated December 12, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended uses, and (2) it knows of no domestic or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2625 Filed 1-30-78; 8:45 am]

[3510-25]

UNITED CEREBRAL PALSY OF NEW YORK

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00385. Applicant: United Cerebral Palsy of New York City, Inc., 122 East 23rd Street, New York, N.Y. 10010. Article: Parts for Swimming Pool Hydraulic Platform. Manufacturer: Anlagenbau fur Wassertechnik, West Germany. Intended use of article: The article is intended to be used for raising a swimming pool floor to enable multi-physically handicapped students to wheel themselves onto the pool floor and be lowered into the pool for physical therapy. In an investigation of the peculiar medical, physiological, and psychological effects on the health and severely disabling sequelae of cerebral palsy. Pool activity is an integral part of a continuing research and staff development program designed to enhance professional understanding and to identify more effective methods for correction and management of the extensive crippling effects of this devastating disease.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 77-00047 which was denied without prejudice to resubmission on May 19, 1977, for informational deficiencies. The foreign article provides capability for a hydraulically adjustable floor that rises to the level of the pool wall to provide easy access for the disabled. The Department of Health, Education, and Welfare advises in its memorandum dated December 12, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-2626 Filed 1-30-78; 8:45 am]

[3510-25]

UNIVERSITY OF PENNSYLVANIA/CVP DIVISION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00388. Applicant: University of Pennsylvania/CVP Division, Room 874, Maloney Building, 3600 Spruce Street, Philadelphia, Pa. 19104. Article: Desk projector for Morphometry. Manufacturer: University of Berne, Switzerland. Intended use of article: The article is intended to be used to study quantitative changes taking place in the lung under normal circumstances and in laboratory animals during experimental edema formation or during other experimental edema formation or during other experimental diseases. The objective of these studies is to clarify mechanisms of disease relevant to humans.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a capability for calculation of air and tissue volumes and areas from the tabulated data. The Department of Health, Education, and Welfare advises in its memorandum dated December 12, 1977 that (1) the capability described above for the article is pertinent to the applicant's use in research studies on edema formation in the lung by quantitative analysis of electron micrographs, and (2) it knows of no domestic instrument and apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-2627 Filed 1-30-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-590]

STATES STEAMSHIP CO.

Application

Notice is hereby given that States Steamship Co. (States) has applied for written permission from the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, for the carriage of passengers between Washington-Oregon-California and Hawaii. Such written permission will be required in the event a new long-term operating-differential subsidy contract is concluded between States and the Maritime Subsidy Board, which long-term contract has been the subject of proceedings before the Board in Docket S-447. As applied to the long-term subsidy contract, this Notice supersedes the Notice of Application previously given in the FEDERAL REGISTER of September 9, 1977 (42 FR 45357), Docket S-577.

States has also applied for written permission for the same domestic passenger service as described above under the short-term interim contract, MA/MSB-419, under which States is currently operating. Inasmuch as the Operator has written permission granted by the Assistant Secretary of Commerce for Maritime Affairs to carry passengers between California and Hawaii, the application, insofar as applicable to contract MA/MSB-419, is for the carriage of passengers between Washington-Oregon and Hawaii.

As information, all of the vessels of States, both RO/RO and C4 types, have capacity for carrying 12 passengers each.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on February 14, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Date: January 26, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-2695 Filed 1-30-78; 8:45 am]

[3510-03]

[Docket No. S-591]

WATERMAN STEAMSHIP CORP.

Application

Notice is hereby given that Waterman Steamship Corp. has filed an application dated December 22, 1977, to amend its Operating-Differential Subsidy Agreement, Contract No. MA/MSB-378, so as to modify the service description with respect to Trade Routes Nos. 12 and 22 (U.S. Atlantic and Gulf/Far East) by deleting the present restriction that Mindanao, Philippine Islands, shall not be served by barge-carrying vessels until after December 31, 1981.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on February 14, 1978.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board.

Date: January 26, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-2696 Filed 1-30-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL'S ADVISORY PANEL

Public Meeting

The Subpanel on Sharks of the Advisory Panel of the Gulf of Mexico Fishery Management Council, established under section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet February 28, 1978, at Lincoln Center, 5401 West Kennedy Boulevard, Suite 881, Tampa, Fla. The meeting starts at 1 p.m. on February 28, and will adjourn at about noon on March 1, 1978.

PROPOSED AGENDA

(1) Management plans; (2) orientation; and (3) other fishery management business, if any.

Meeting is open to the public. For more information on seating, changes to the agenda, and/or written comments, contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Tampa, Fla., telephone 813-228-2815.

Dated: January 25, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-2587 Filed 1-30-78; 8:45 am]

[3510-17]

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of Additional System of Records

The purpose of this notice is to adopt in final form a system of records for the Interagency Task Force on Women Business Owners.

On October 28, 1977, the Department of Commerce gave notice (42 FR 56771-72) that it proposed to adopt a system of records entitled: Talent and Experience File of Women's Business Experts—Commerce/WBO-1.

The purpose of this new system is to develop an information and talent resource comprised of individuals having knowledge of women's business operations, problems, and discriminations.

A Presidential memorandum of August 4, 1977, established the Task Force to identify the discriminatory practices and conditions that confront women entrepreneurs or that discourage women who desire to become entrepreneurs. This memorandum made the Secretary of Commerce responsible for appointing a staff to carry out the Task Force functions, and stated that the Commerce Department designee to the interagency group would chair the Task Force. The Task Force's final report to the President is due 120 working days after the first public meeting (November 17, 1977), that is, May 9, 1978.

As authorized by 5 U.S.C. 301, 15 U.S.C. 1512, and 44 U.S.C. 3101, the Task Force and its staff will maintain records containing personal background and experience data on individuals communicating with or possessing knowledge or skills of relevance to the Task Force. They will use the resource to: (a) Identify and assess existing data; (b) identify discriminatory practices and conditions; (c) assess current Federal programs and practices that maintain or mitigate discrimination; and (d) propose changes in Federal law, regulation, and practice, and assess their impact on the Federal budget.

A new system report, dated October 12, 1977, was submitted to the Office of Management and Budget and the Congress as required by the Privacy Act. The Department requested the Office of Management and Budget to waive the 60-day advance notice requirement for this system. The waiver was granted by OMB in a letter dated November 17, 1977. Interested persons were invited to submit written data, views, or arguments on or before November 28, 1977. No comments were received in response to the notice.

Therefore, the Department adopts the additional system effective November 28, 1977. Because the complete text of the new system was published in the FEDERAL REGISTER on October 28, 1977, pages 56771-72, and the system is adopted without change, there is no need to republish at this time.

AUTHORITY: 5 U.S.C. 552a, sec. 3, Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896).

Dated: January 9, 1978.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 78-2583 Filed 1-30-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Notice of Intention To Issue Prohibition Orders to Certain Powerplants

The Department of Energy (DOE) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended and Chapter II, Title 10, Code of Federal Regulations (10 CFR Parts 303 and 305) to the following powerplants:

Docket No.	Owner	Generating station	No.	Location
OCU-161	United Power Association.	Elk River	1	Elk River, Minn.
OCU-162	do	do	2	Do.
OCU-163	do	do	3	Do.

DOE hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source until December 31, 1984.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3(b) require that DOE find that the powerplant on June 22, 1974, had, or thereafter acquired or was designed with the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. DOE's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information available to DOE. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may determine to issue a Prohibition Order to the above-named powerplants. This Prohibition Order will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the DOE, as required by Section 2(b) of ESECA, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a delayed compliance order under section 113(d)(5) of the Clean Air Act, as amended, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, as required by section 2(b) of ESECA, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of the Clean Air Act, and (2) DOE has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to a powerplant, DOE shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Revised Environmental Impact Statement (FES 77-3, dated May, 1977) or in other official documents made publicly available.

If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, is should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a delayed compliance order. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons.

Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue a Prohibition Order to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should make reference to the relevant docket number(s).

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of the these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d), DOE hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons in the proposed Prohibition Order will be held beginning at 9 a.m. on February 15, 1978, in the Hearing Room (568), General Services Administration, Public Building Service, Fort Snelling, Minn. 55111. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Steve Dudas, Department of Energy, Region V, 175 West Jackson Boulevard, Room 333, Chicago, Ill. 60604, 312-886-5168. The request should be received before 4:30 p.m., February 8, 1978. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group of class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through February 14, 1978. Speakers will be contacted by a DOE representative before 4:30 p.m., Thursday, February 9, 1978 and should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Charles Swank, Department of Energy, 175 West Jackson Boulevard, Room 333, Chicago, Ill. 60604, before 4:30 p.m., Tuesday, February 14, 1978.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to made a final rebuttal statement.

Any further procedual rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the DOE and made available for inspection and copying at the Freedom of Information reading room located in Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the DOE Regional Office, Reading Room, Room 333, 175 West Jackson Boulevard, Chicago, Ill. 60604, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, veiws, and arguments with respect to these proposed Prohibition Orders to Office of Regulations Management, Department of Energy, Box QT, Room 2214, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to the Department of Energy should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Elk River Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m. Friday March 17, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following DOE Regional Offices:

Region, Address and Phone:

I—Director for Fuels Regulation, 150 Causeway Street, Room 700, Boston, Mass. 02113, 617-223-3701.

II—Director for Fuels Regulation, 26 Federal Plaza, Room 3206, New York, N.Y. 10007, 212-264-1021.

III—Director for Fuels Regulation, 1421 Cherry Street, Room 1001, Philadelphia, Pa. 19102, 215-597-3390.

IV—Director for Fuels Regulation, 1655 Peachtree Street NE., 8th Floor, Atlanta, Ga. 30309, 404-526-2837.

V—Director for Fuels Regulation, Federal Office Building, 175 West Jackson Boulevard, Room A-333, Chicago, Ill. 60604, 312-353-0540.

VI—Director for Fuels Regulation, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235, 214-749-7345.

VII—Director for Fuels Regulation, 1160 Grand Avenue, Kansas City, Mo. 64106, 816-374-2061.

VIII—Director for Fuels Regulation, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226, 303-234-2420.

IX—Director for Fuels Regulation, 111 Pine Street, San Francisco, Calif. 94111, 415-445-7216.

X—Director for Fuels Regulation, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-7280.

Any questions regarding this notice should be directed to the DOE National Office as follows: Department of Energy, Code DCU (Prohibition Order: Elk River Powerplant), Washington, D.C. 20461, 202-254-3910.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; E.O. 11790 (39 FR 23185), E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., January 25, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the Department of Energy (DOE) regulations require DOE to make certain findings before issuing a Prohibition Order to a powerplant. DOE's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OCU-161	United Power Association	Elk River	1	Elk River, Minn.
OCU-162	do	do	2	Do.
OCU-163	do	do	3	Do.

These findings, which are now proposed by DOE, are based on the information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

United Power Association shall be referred to as the "utility" and as "United Power".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

DOE proposes to find that on June 22, 1974, Powerplants Number 1, 2, and 3 at Elk River Generating Station (Elk River 1, 2, and 3) had, or thereafter, acquired or were designed with the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. An evaluation of a PEDCo Environmental, Inc., report entitled Coal Conversion Potential of the Elk River Plant Study, September, 1977 and information filed by United Power with FEA dated September 8, 1977, indicates that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information United Power filed with FEA dated September 8, 1977, and other information available to DOE, Elk River 1, 2 and 3 would have to upgrade the existing coal pile to control runoff of water in order for these powerplants to burn coal as their primary energy source.

C. Based on information United Power filed with FEA dated June 17, 1977, stating that Elk River 1, 2 and 3 have the capability to burn coal as their primary energy source without acquiring or refurbishing existing powerplant equipment, and other information available to DOE, DOE proposes to find that on June 22, 1974, Elk River 1, 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the facilities listed in paragraph B, above, do not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

DOE proposes to find that the burning of coal at Elk River 1, 2 and 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Elk River 1, 2 and 3 will be operated at a 25 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 15 years (as of the date of this NOI), are expected to have at least 14 years remaining useful life after conversion of the powerplants and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*

1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Elk River 1, 2 and 3 are estimated to be approximately $3,020,000, which assumes that an electrostatic precipitator and associated facilities will be required at a cost of $3,010,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on information supplied by the utility.

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $1,576,000 per year including $263,000 for operation and maintenance of air pollution control equipment. This estimate is based on information supplied by the utility.

c. *Fuel Costs.* (i) Based on information supplied by the utility, the price of petroleum products available to Elk River 1, 2 and 3 is approximately $2.80 per million Btu's for oil. This represents $16.46 per barrel of oil, assuming 5.88 million Btu's per barrel.

(ii) Based on information supplied by the utility, the price of coal available to Elk River 1, 2 and 3 is approximately $1.23 per million Btu's. This represents $20.91 per ton of coal, assuming 17.0 million Btu's per ton.

(iii) DOE estimates that the burning of coal by these powerplants will result in the reduction of approximately $1.57 per million Btu's or $2,359,000 per year in fuel costs. This estimate is based on fuel consumption presuming Elk River 1, 2 and 3 are operated at a weighted average 25 percent capacity factor and with an average heat rate of 14,000 Btu's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Elk River 1, 2 and 3, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $2,120,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Elk River 1, 2 and 3 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $543,600 (this represents an amortized cost over the 14 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 18.0 percent of the total initial capital investment of $3,020,000 and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $1,576,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $2,359,000. (see paragraph A.1.c.) Considering the fuel cost savings, the total annual cost of operating Elk River 1, 2, and 3 should be reduced by $239,000.

Since all increased costs of conversion will be offset by the decrease in

fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Elk River 1, 2 and 3.

The use of coal at Elk River 1, 2 and 3 will result in an estimated annual equivalent savings of 255,500 barrels of oil that otherwise would be used in providing steam for electric power generation.

DOE proposes to find that since the increased annual capital investment costs and operating and maintenance costs at the powerplants are offset by the current fuel cost differential between oil and coal burning at these powerplants, and because of potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of United Power Association.* a. *Recovery of capital investment.* DOE proposes to find that compliance with a Prohibition Order to Elk River 1, 2 and 3 would be economically feasible. DOE's analysis took into consideration $3,020,000 additional capital investment costs required for United Power to comply with this NOI and all other additional capital investment costs to United Power's estimate of its 1977 construction budget of $142 million, the total capitalization of United Power of $172 million and the 14 years remaining useful life after conversion of Elk River 1, 2 and 3.

DOE does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capability of United Power to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI would be $2,120,000. This also represents the total estimated annual incremental increase in revenue requirements of United Power. (DOE also took into consideration revenue requirements of United Power resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESCA to United Power powerplants.) This estimate of $2,120,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology for Coal Conversion Cost Reasonableness Determination, August 1976 (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

For comparison with the Ultrasystems Computer Model results, DOE performed a financial analysis based on a Price Waterhouse & Co. report (computer methodology) entitled Identification of Possible Financial Effects of Converting Certain Electric Generating Facilities to the Use of Coal, October 1976.

This analysis estimated the total annual incremental increase in revenue requirements to be $1,999,000, which assumed a predicted effect on United Power's financial statement and represents revenues required to offset any potential loss in United Power's net earnings as reported for fiscal year ending 1976.

The total estimated annual increase in costs of $2,120,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately $2,359,000 attributable to compliance with this NOI and all other NOI's currently under consideration. Therefore, the net annual revenue requirements of United Power should decrease by approximately $239,000.

4. *Consumer Impact.* The potential initial impact of a Prohibition Order to Elk River 1, 2 and 3, is a net decrease in revenues required from United Power consumers of approximately $.00002 per kilowatt-hour of electricity sold by United Power. This estimate is based on DOE's analysis of the Ultrasystems Computer model results.

The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which United Power selects to finance the increased costs associated with burning coal as a primary energy source at Elk River 1, 2, and 3, the extent to which the cost decrease is spread among United Power customers, the regulations or policies of the regulatory agencies with jurisdiction over United Power regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Elk River 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, DOE proposes to conclude that a Prohibition Order to Elk River 1, 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE POWERPLANTS DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable, Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey"). Within these recoverable reserves approximately 100 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from respones to a survey of coal companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total national coal planned production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year	*Production potential (million tons)*
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability and Demand: Round I and II Coal Conversion Candidates, as revised, March 11, 1977 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA Prohibition Order demand.* The estimated national demand, excluding any increased demand resulting from DOE action under the authority of section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA Prohibition Order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows (Coal Availability Report, as revised, November 9, 1977):

Year	Demand (million tons)
1978	10.1
1979	14.6
1980	20.9
1981	23.1
1982	29.5
1983	29.7
1984	29.7
1985	29.7

3. *Characteristic Coal, Production and Demand.* a. *Characteristic coal requirements for these powerplants.* Based on information provided by United Power, DOE proposes to conclude that drybottom boilers, of the type used at Elk River 1, 2, and 3, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	8,300.
Moisture	25.50 pct.
Ash	9 to 20 pct.
Volatile	27.72 pct minimum.
Sulfur	1.0 pct maximum

b. *Characteristic coal demand from these powerplants.* The potential annual demand for coal, of the type described above which would result from this NOI is estimated to be as follows:

Year	Potential annual demand (thousand tons)
1979 to 1984	88,373

c. *Characteristic coal available to these powerplants.* Based on information provided by United Power and also Great Lakes Coal and Dock Co., DOE proposes to find that United Power has received a written commitment from Great Lakes Coal and Dock Co. for a supply of characteristic coal through 1982 with an option to renew the commitment through 1984.

4. *State and local laws.* DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* On the basis of the contractual commitment between United Power and Great Lakes Coal and Dock Co., DOE proposes to find that coal of the characteristics required will be available to Elk River 1, 2 and 3. Furthermore, on the basis of the BOM Survey, the Coal Mine Expansion Study, the Availability Study and the FEA 1976 National Energy Outlook, DOE expects that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders, to date, and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. DOE therefore observes that although United Power has a commitment from Great Lakes Coal and Dock Co. to supply coal through 1982, with a right to renew through 1984, United Power could also purchase coal for Elk River 1, 2 and 3 in other markets.

B. *Coal transportation.* 1. *Location of powerplants and coal supply.* Based on information provided by United Power, coal for Elk River 1, 2 and 3 has been contracted to be supplied from Colstrip, Mont. While this supply area has been chosen by United Power to provide complying coal to these powerplants, DOE observes that complying coal can be transferred by rail from other identified sources within the United States.

2. *Route of coal shipment.* Based on information provided to DOE by United Power, the primary route for coal delivery for Elk River 1, 2 and 3 would originate on the Burlington & Northern (B. & N.) Railroad at Colstrip, Mont. and carry the coal directly to Elk River 1, 2 and 3.

3. *Orginating trunk carrier.* B. & N., the expected carrier of coal for Elk River 1, 2 and 3 has indicated that it is willing to acquire any needed capacity involved in shipment to Elk River 1, 2 and 3 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as powerplants prepare to burn coal.

Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, DOE has concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under Sections 2(a) of ESECA.

DOE has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Powerplant facilities.* Elk River 1, 2 and 3 presently have coal unloading facilities which United Power has advised DOE are adequate to handle the projected coal demand. There are no obstacles to the delivery of coal to Elk River 1, 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Elk River 1, 2 and 3 presently exist, and alternate routes are available.

IV. THE PROHIBITION OF THE BURNING OF NATURAL GAS OR PETROLEUM PRODUCTS AS THEIR PRIMARY ENERGY SOURCE WILL NOT IMPAIR THE RELIABILITY OF SERVICE IN THE AREA SERVED BY THE AFFECTED POWERPLANTS

Based on an analysis of the information submitted to DOE by the Federal Energy Regulatory Commission and United Power, DOE proposes to find that the issuance of a Prohibition Order to Elk River 1, 2 and 3 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order to Elk River 1, 2 and 3. United Power has advised DOE that the 25 percent capacity factor will allow for one boiler to always remain operational.

Furthermore, both the Federal Energy Regulatory Commission and

United Power have advised DOE that a derating of 8 MW while burning coal will not impair the reliablity of service. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by United Power as a result of a Prohibition Order.

[FR Doc. 78-2580 Filed 1-30-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CI78-135]

AMINOIL DEVELOPMENT, INC.

Notice of Application

JANUARY 24, 1978.

Take notice that on November 3, 1977, Aminoil Development, Inc. (Aminoil), Golden Center 1, 2800 North Loop West, P.O. Box 94193, Houston, Tex. 77018, filed in Docket No. CI78-135 an application pursuant to section 7(c) of the Natural Gas Act, as amended, and § 2.75 of the Commission's General Policy and Interpretations, Optional Procedure for Certificating New Producer Sales of Natural Gas, for a certificate of public convenience and necessity authorizing the sale of natural gas from its interest in Block 317 Field, High Island Area, offshore Texas, to Natural Gas Pipeline Co. of America, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The contract is for a base period of 20 years and provides for an initial base rate of $4.53 per Mcf at 14.65 psia, subject to Btu adjustment and new or increased taxes. Applicant's projections show total deliveries at 69 Bcf.

Any person desiring to be heard or to make any protest with reference to said application, on or before February 16, 1978, should 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 person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necesssity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2541 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CS78-187, et al.]

ARKANSAS CHILDREN'S HOSPITAL, ET AL.

Notice of Applications for "Small Producer" Certificates[1]

JANUARY 24, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications 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 17, 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 subject 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 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 be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

Docket No.	Date filed	Applicant
CS78-187	Jan. 3, 1978	Arkansas Children's Hospital, 720 West Third St., Little Rock, Ark. 72201.
CS78-189	Dec. 12, 1977.	Terex Exploration Co., Inc., 805 The 600 Building, Corpus Christi, Tex. 78473.
CS78-190	do	Double Eagle Drilling Co., 4835 L.B.J. Freeway No. 975, Dallas, Tex. 75234.
CS78-191	Dec. 30, 1977.	Energy Unlimited, Inc., 427 Second St., Marietta, Ohio.
CS78-192	Jan. 3, 1978	Jack Guenther & John C. Korbell, 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS78-193	do	Marks Oil Inc., 475 Capitol Life Center, Denver, Colo. 80203.
CS78-194	do	Dow Oil Corp., 475 Capitol Life Center, Denver, Colo. 80203.
CS78-195	do	C. K. Davis, 8700 Stemmons Fwy., suite 115, Dallas, Tex. 75247.
CS78-196	Jan. 5, 1978	San Antonio Oil & Gas Corp., 8634 Crownhill, San Antonio, Tex. 78209.
CS78-197	Jan. 6, 1978	C. Dale Stromquist, 1329 Westhaven Drive, Liberal, Kan. 67901.
CS78-198	Jan. 9, 1978	Alfred E. Knobler, 475 Fifth Ave., New York, N.Y. 10017.
CS78-199	do	Bonray Drilling Fund—1976, Ltd., P.O. Box 20746, Oklahoma City, Okla. 73120.
CS78-200	do	Elden W. Gaus, 3420 Brentwood, Beaumont, Tex.
CS78-201	do	Charles Richard Seike, 3120 Amherst, Houston, Tex. 77005.
CS78-202	do	Rio Bravo Oil Co., Inc., 1717 St. James Place, suite 300, Houston, Tex. 77056.
CS78-203	do	Diana Felder Fillmore, testamentary trust, First National Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Tex. 75283.
CS78-204	do	William Felder III, testamentary trust.
CS78-205	do	Diana Gibbs Felder, testamentary trust.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS78-206	do	Liza Felder Delaney, testamentary trust.
CS78-207	do	Ann Felder Sandifer, testamentary trust.
CS78-208	do	Diana Gibbs Felder, living trust.
CS78-209	do	Alcoil Exploration, Inc., 2525 Cerritos Ave., Signal Hill, Calif. 90806.
CS78-210	do	A. Louis Canut, 3947 Marshall Way, Long Beach, Calif. 90807.
CS78-211	do	Havre Drilling Co., P.O. Box "D", Havre, Mont. 59501.
CS78-212	do	H-M Oil Co., 3906 North Navarro, Victoria, Tex.
CS78-213	do	Virgil Davis Hunt, 700 North Bonner St., Ruston, La. 71270.
CS78-214	do	Edward B. Little, 1007 Fountainview, Houston, Tex. 77057.
CS78-215	do	Walker & Withrow, Inc., 101 Park Ave. Bldg., suite 1080, Oklahoma City, Okla. 73102.
CS78-216	Jan. 10, 1978.	John William Lander, III, P.O. Box 567, South Houston, Tex. 77587.
CS78-217	do	Joseph Robert Franz, 4602 Devon St., Houston, Tex. 77027.
CS78-218	do	R. N. Thompson, P.O. Box 216, Shreveport, La. 71162.
CS71-1148	do	First City National Bank of Houston and Alfred C. Glassell, Jr., Trustees for the Carrie Gail Stringfellow Trust,[1] First City National Bank Bldg., Houston, Tex. 77002.

[1] Being noticed to reflect the names of both trusts: The Carrie Gail Stringfellow Trust and the Regan McIntyre Stringfellow Trust.

[FR Doc. 78-2538 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CS77-752, et al.]

BRANCH T. ARCHER, ET AL.

JANUARY 5, 1978.

Notice of Applications for "Small Producer" Certificates; Erratum

Tabulation, Page 3, Docket No. CS77-853, Louis Arrington.

Under Column headed "Date Filed" change "9/28/77" to read "9/26/77," opposite Docket No. CS77-853.

Issued: October 14, 1977.

KENNETH F. PLUMB
Secretary.

[FR Doc. 78-2556 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CI77-244]

CLARK OIL PRODUCING CO. ET AL.

Filing of Proposed Stipulation of Facts and Settlement Proposal

JANUARY 24, 1978.

Take notice that on December 14, 1977, Clark Oil Producing Co., American Independent Oil Co., H. W. Bass and Sons., Inc., and Home Petroleum Corp. (Applicants) filed in Docket No. CI77-244 a proposed stipulation of facts and settlement proposal. Applicants state that the proposed stipulation of facts is dependent on the proposed settlement, and that in the event the proposed settlement is not approved in full by the Commission, the proposed stipulation shall be privileged and shall become null and void.

On January 28, 1977, Applicants filed an application for a certificate of public convenience and necessity pursuant to section 2.75 of the Commission's General Policy and Interpretations, for natural gas from the north one-third of Block 595, West Cameron Area, offshore Louisiana, to Columbia Gas Transmission Corp. (Columbia) at a rate of $3.7501 per Mcf. On May 16, 1977, Applicants amended their application to reflect an increase in the rate requested from $3.7501 per Mcf to $4.019 per Mcf. On February 28, 1977, Associated Gas Distributors (AGD) filed a petition for leave to intervene, but stated no position with respect to the merits of the application; on March 10, 1977, the Public Service Commission of the State of New York (New York) filed a notice of intervention in the above-cited docket, and requested a hearing on the application. On April 6, 1977, Columbia Gas Transmission Corp. filed a petition for leave to intervene out of time. On September 23, 1977, pursuant to a notice issued September 8, 1977, an informal settlement conference was held at the Commission's offices, and representatives of Applicants, the Commission Staff, Columbia, and AGD were in attendance. The Commission has not set this application for hearing, nor has it issued any orders in this docket.

Applicant proposes a stipulation of facts stating that the actual unit cost of gas is $2.4975 per Mcf. This calculation of unit cost is based upon an exclusion of two-thirds of the lease acquisition and lease rental costs, inasmuch as applicants seek certification of sales from only one-third of the offshore block in question. In addition, applicant states that an adjustment has been made to exclude from the cost calculations an amount of interest which they might have received from the reinvestment of the cash flow generated by the project.

Applicants have also filed a document styled "Offer of Settlement of Clark Oil Producing Co., et al.," pursuant to section 1.18(e) at the Commission's Rules of Practice and Procedure. Applicants state that they have contracted to sell certain gas produced from their leasehold interests in the month one-third of Block 595, West Cameron Area, Offshore Louisiana. They further state that they acquired the block at the June, 1973 federal lease sale for a bonus payment of $3,521,715.00, and that the application covers reserves totalling 10.435 Bcf. As is noted above, Applicants have excluded from their calculation of unit cost two-thirds of the lease acquisition and lease rental costs. According to the Applicants, their out-of-pocket project costs, providing no return on investment and no federal income tax allowance, are $4.019 per Mcf. However, applicants propose to sell the gas in question to Columbia at a rate of $2.4975 per Mcf, and have amended their application accordingly. The offer of settlement is contingent upon Commission approval, and Applicants state that in the event it is not accepted and approved in its entirety, it shall be privileged and of no effect.

Any person desiring to be heard or to comment upon the settlement proposal should file initial comments on or before March 1, 1978. Reply comments, if any, should be filed on or before March 15, 1978. Such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Comments will be considered by the Commission in order to determine the appropriate action to be taken. Copies of the settlement proposal are on file with the Commission and are available for public inspection.

Any person who is not a party to this proceeding, or who has not yet filed a protest or petition for leave to intervene, may file such pleadings on or before March 1, 1978. Any person desiring to comment upon the settlement proposal, or any person desiring to be heard with reference to the application filed herein, shall file a protest or petition for leave to intervene on or before March 1, 1978. Such filings shall be made with the Federal Energy Regulatory Commission at the above-noted address. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2542 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-147]

COLORADO INTERSTATE GAS CO.

Application

JANUARY 25, 1978.

Take notice that on January 9, 1978, Colorado Interstate Gas Co. (applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-147 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a short-term sale of natural gas to Natural Gas Pipeline Co. of America (NGPL), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to sell up to 100,000 Mcf of natural gas per day on a best efforts basis to NGPL, which sale would be separate from and in addition to applicant's traditional long-term sales to NGPL. Applicant states that the sale of the proposed volumes of gas would commence upon receipt of the requested authorization here and would terminate by contractual agreement on December 31, 1978. It is estimated that this sale would total approximately 16,000,000 Mcf over the approximate 1-year term.

Applicant states that because of facility limitations on its pipeline system, the proposed short-term sale would not be made directly to NGPL at existing interconnections but by delivery to Northwest Pipeline Corp. (NPC) at an existing delivery point located at the western terminus of Applicant's Wyoming pipeline system near Green River, Wyo. It is stated that NGPL has made separate arrangements with NPC and El Paso Natural Gas Co. (El Paso) for transportation and redelivery of this gas to its pipeline system.

Applicant states that the price of all gas sold under the short-term sale to NGPL would be at the effective unit rate incorporated from time to time in applicant's FERC rate schedule EX-1, currently 115.06 cents per Mcf.

Applicant asserts that the proposed short-term sale would assist it in balancing its current requirements and supply and would encourage producers to develop the additional supplies critically needed in the future by providing a ready outlet for the gas presently available.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2546 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP 78-158]

COLUMBIA GAS TRANSMISSION CORP.

Application

JANUARY 25, 1978.

Take notice that on January 16, 1978, Columbia Gas Transmission Corp. (applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP78-158 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for 2 years of up to 16,100 Mcf of natural gas perday for Allied Chemical Corp. (Allied), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 16,100 Mcf of natural gas per day for Allied pursuant to a transportation agreement dated December 14, 1977, between the two parties, which gas applicant would receive from Texas Eastern Transmission Corp. (Texas Eastern) at an existing point of interconnection in Westmoreland County, Pa., and would deliver, for the account of Allied, to CNG Transmission Co. (CNG), a wholesale customer of applicant, at an existing point of delivery in Greene County, Va. It is stated that CNG would in turn deliver the gas to Allied at its Hopewell, Va., chemical complex through existing distribution facilities.

It is indicated that Allied's Hopewell, Va., chemical complex produces ammonia, CO_2, and hydrogen, and that the gas to be transported hereunder would be used to replace curtailed film requirements of natural gas used primarily as feedstock in the production of ammonia with the small remaining amount being used as process gas needed to provide precise temperature control. It is further indicated that there is no technically feasible alternative natural gas for this feedstock or process use.

Applicant states that the gas to be transported hereunder would be delivered to Texas Eastern in the form of ethane which is owned by Allied and presently stored in its Choctaw Dome storage facility in Iberville Parish, La. It is indicated that the natural gas to be transported for Allied is available to the interstate market inasmuch as the initial gas delivered would be in the form of vaporized ethane and owned by Allied. It is stated that the subject gas is subject to diversion to applicant on a temporary basis in emergency periods when, in applicant's sole judgment, such gas is required for the protection of priority 1 requirements on its system. Gas so diverted would be paid back as soon as practicable after the emergency period, it is said.

Applicant states that its charge for this service would be its average system-wide unit storage and transmission cost, exclusive of company-use and unaccounted-for gas, which is 20.56 cents per Mcf, and that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Allied, which percentage is currently 4 percent.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 10, 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2545 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP77-282]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

JANUARY 25, 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 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 FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. 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 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 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.

Take notice that on January 5, 1978, Columbia Gas Transmission Corp. (petitioner), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-282 a petition to amend the order of July 1, 1977, issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the installation and operation of an additional 4,000 horsepower reciprocating compressor unit instead of the 4,250 horsepower turbine-powered centrifugal unit which was previously authorized herein, all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of July 1, 1977, petitioner was authorized, inter alia, to install and operate an additional 4,250 horsepower compressor unit at Coco compressor station located in Kanawha County, W. Va., which horsepower addition is part of a project designed to enable petitioner to increase the annual storage turnover volumes in its Coco storage complex. It is stated that petitioner proposed the installation of the 4,250 horsepower turbine-powered centrifugal compressor unit as an addition to the existing Coco compressor station which consists of six reciprocating compressor units totaling 5,500 horsepower, five 880 horsepower and one 1,100 horsepower units. The original filing in the instant docket was based on the need to commence the drilling of additional Coco storage wells during 1977, whereas, construction of the Coco horsepower addition was not to commence until the summer of 1978, it is said.

The application states that initial compressor station design investigations determined that the installation of a 4,250 horsepower turbine-powered centrifugal compressor unit would satisfy the additional Coco compression requirements at the lowest capital cost, and that in order to minimize Coco's fuel requirements it would have been necessary to base load the existing reciprocating units and utilize the centrifugual unit only during limited periods when maximum station horsepower is required. The application further states that when detailed design investigations were conducted during 1977, it was determined that installation of the 4,250 horsepower centrifugal unit would require an approximate 54-percent increase in the utilization of the older units which would accelerate wear and fatigue. It was determined that the increase in operating expenses with the 4,250 horsepower unit, would have been $209,600 rather than the estimated $134,900 increase reflected in the original application, it is stated. Petitioner asserts that further studies were conducted to develop an alternative which would extend the service life of the existing Coco units by reducing their load factor.

Petitioner has now determined that this objective can best be accomplished by the proposed installation of a 4,000 horsepower reciprocating compressor unit. Petitioner indicates that the heavy duty design and high fuel efficiency of the proposed reciprocating unit makes it more suitable for a base load type of operation, and that its broad performance range makes its operation interchangeable with the existing reciprocating units. Petitioner states that base loading the proposed 4,000 horsepower reciprocating unit would reduce the required utilization of the existing units by approximately 40 percent, and that the annual station fuel consumption would be reduced by approximately 63,000 Mcf compared to station fuel consumption with the currently authorized 4,250 horsepower addition.

Consequently, petitioner proposes to install a 4,000 horsepower reciprocating compressor unit addition at an estimated cost of $3,165,000, which cost would be financed through funds generated internally. The cost of the unit proposed herein in an increase of approximately $1,911,300 over the unit proposed in the original application filed herein, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2547 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP 75-158]

CONSOLIDATED GAS SUPPLY CORP.

Petition To Amend

JANUARY 25, 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 provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. 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) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary 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.

Take notice that on January 4, 1977, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, W. Va. 26301, filed in Docket No. CP75-158 a petition to amend the order of May 29, 1975 (53 FPC ——), as amended, issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7 of the natural gas act so as to permit certain modifications to the replacement program for its West Virginia wet gas transmission system previously authorized in this docket, all as more fully set forth in the petition on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of May 29, 1975, in the instant docket, the FPC authorized Petitioner's four-year program to replace its West Virginia wet gas transmission system at an estimated capital cost of $18,301,700. It is further indicated that pursuant to the FPC amending order of August 18, 1976, Petitioner was authorized to defer for one year construction of the 24.4 miles of Line No. TL-418 authorized by the May 29, 1975, order. Petitioner alleged that its 1976 construction budget would not provide sufficient capital funds to construct this line as well as the dry gas pipeline proposed in Docket No. CP76-396. It is stated that studies were under way to determine whether segments of dry gas Line Nos. H-192, TL-264 and TL-265 could be made available for incorporation into its wet gas system in substitution for the construction of new pipelines as previously authorized herein.

It is indicated that on February 24, 1977, Petitioner filed a petition to amend further the FPC order of May 29, 1975, herein to (1) reclassify, from dry gas to wet gas transmission service, at a cost of $363,000, approximately 24 miles of existing 20-inch Line No. TL-265, in lieu of constructing 24 miles of new 24-inch Line No. TL-418 at an estimated cost of $5,400,000 as previously authorized; (2) construct and operate an 880-horsepower compressor station near Yellow Creek in Calhoun County, W. Va., in lieu of the 1320-horsepower Burnt House Station previously authorized; and (3) defer all other projects scheduled from 1977-79 by one year, pending further studies of its West Virginia wet and dry gas transmission systems. The company further stated that all other 1976 projects which had been deferred until 1977 by the FPC order of August 18, 1976, were scheduled to be completed in 1977. It is indicated that pursuant to the FPC order of May 25, 1977, in the instant docket, these modifications were approved. It is further indicated that pursuant to order of October 21, 1977, the FERC granted Petitioner authorization to substitute an 1100-horsepower engine for the 880-horsepower engine authorized for Yellow Creek compressor station by the FPC's order of May 25.

The petition states that the projects proposed to be completed now as authorized are as follows:

1978

All projects modified.

1979

(1) Construct and operate 4.7 miles of 12-inch Line No. TL-427 from Kennedy Station to Law Station.

(2) Construct and operate 5.8 miles of 8-inch Line No. TL-425 from Davis Station to Law Station.

(3) Abandon 35.9 miles of 16- and 20-inch Line No. H-138 from Jones Station to Stutler Junction.

(4) Abandon 1.1 miles of Line No. H-139 from Heckert Junction to former Payne Station.

The modifications which applicant proposes to make for all three years of the project by this petition are as follows:

1978

(1) Relocate 2,000 horsepower from Craig Station to Yellow Creek Station and delete construction of 6.9 miles of 10-inch Line No. TL-423 from Craig Station to Burnt House Junction

(2) Construct and operate 5.5 miles of 12-inch Line No. TL-422 from Yellow Creek Station to Buckmeyer Junction in lieu of construction of 11.4 miles of 12-inch Line No. TL-422 from Burnt House Junction to Cabot Station.

(3) Reclassify, from transmission to production, 7.5 miles of 10-inch Line No. H-68 from Craig Station to Burnt House and 6.5 miles of 12-inch Line No. H-193 from Burnt House Junction to Yellow Creek Station.

(4) Reclassify, from dry gas to wet gas transmission service, 14.8 miles of 12-inch Line No. H-192 and 14.7 miles of 12-inch Line No. TL-264 from Minnora Junction to Jones Station replacing 14.3 miles of 20-inch TL-273.

(5) Construct and operate 0.2 mile of 12-inch Line No. TL-277 connecting Line No. H-192 to Line No. H-138 at Jones Station.

(6) Construct and operate 0.85 mile of 8-inch and 0.4 mile of 12-inch Line No. TL-369 (extension) to connect lines described in (4) above to Orma Station discharge.

(7) Miscellaneous tie-in facilities to connect existing 12-inch Line No. TL-382 at Minnora Junction to facilities described in (4) above.

(8) Abandon 14.3 miles of 20-inch Line No. TL-273 from Minnora Junction to Jones Station.

1979

(1) Construct and operate 4.7 miles of 10-inch Line No. TL-427 from Dent Junction to Kennedy Station in lieu of 7.1 miles of 10-inch Line No. TL-427 from Camden Station to Kennedy Station previously authorized.

(2) Reclassify, from transmission to production, 4.8 miles of 10-inch Line No. TL-221 from Dent Junction to Kennedy Station.

(3) Reclassify, from transmission to production, 2.8 miles of 12- and 16-inch Line No. H-32 from Law Junction to Wymer Junction and connect remaining portion of Line No. H-32 to pipeline described in Section III, paragraph (2).

(4) Reclassify, from transmission to production, 4.7 miles of 10-inch Line No. TL-207 from Douglas Junction to Linder Meters, improving Camden Station suction.

(5) Retire 3.4 miles of 8-inch Line No. TL-226 from transmission service, retaining 0.2 mile in distribution service, 0.5 mile in production and abandoning 2.7 miles.

(6) Construct and operate 13.1 miles of 10-inch Line No. TL-428 from Sardis Station to Dearth Junction in lieu of 4.6 miles of 6-inch and 8.1 miles of 8-inch line previously authorized.

(7) Reclassify, from transmission to production, 3.5 miles of 10-inch Line No. TL-354 from Sardis Station to Morrison Junction.

(8) Reclassify, from transmission to production, 0.2 mile of 8-inch Line No. TL-291 connecting Line Nos. TL-354 and H-141.

(9) Reclassify, from transmission to production, 4.5 miles of 16-inch Line No. H-141 from Morrison Junction to Springer Junction.

(10) Reclassify 2.1 miles of 16-inch Line No. H-150 to production from Springer Junction to production Line H-88 and abandon 3.7 miles of line from H-88 to Stutler Junction.

(11) Construct and operate 3.1 miles of 16-miles of 16-inch Line No. TL-432 from Fleming Junction connecting Line Nos. H-192 and TL-264 to Line No. TL-418.

(12) Reclassify, from dry to wet gas transmission service, 19.4 miles of 12-inch Line No. H-192 and 19.2 miles of 14- and 16-inch Line No. TL-264 from Jones Station to Fleming Junction.

(13) Reclassify, from transmission to production, 13.8 miles of Line No. H-45 from Fink Junction to Collins Junction.

(14) Reclassify, from transmission to production, 0.8 mile of 8-inch Line No. H-149 from Maxwell Station to Line No. H-45.

(15) Relocate one 440-horsepower compressor engine from Maxwell Station to Collins Station, instead of to Smithburg as previously authorized.

(16) Pipe sections in 2.3 miles of 10-inch Line No. TL-238 from Camden Station to Douglas Junction and 1.1 miles of 10-inch Line No. TL-207 from Douglas Junction to Dent Junction will continue to be replaced, size for size, under Section 2.55 of the Commission's Statements of General Policy and Interpretations, resulting in complete replacement of these lines by the completion of the subject program.

(17) Reclassify, from transmission to production, 4.0 miles of 12- and 16-inch Line No. TL-215 from Kennedy Station to Law Station.

1980

(1) Construct and operate 6.2 miles of 8-inch Line No. TL-424 from Smithburg Station to Middle Run Junction (a 0.5-mile increase over 1978 Projects (1) and (2) described at page 4 of the original application herein).

(2) Reclassify, from transmission to production, 4.1 miles of 8-inch Line No. H-15 from Smithburg Station to Collins Junction.

(3) Abandon 1.6 miles of 20-inch Line No. H-45 from Collins Junction to Maxwell Junction.

(4) Abandon 0.5 mile of 12-inch Line No. TL-362 from Maxwell Junction to Middle Run Junction.

The petition states that Petitioner proposes certain additional minor changes to its wet gas transmission system replacement which, primarily, involve the reclassification from dry gas to wet gas transmission service of several sections of pipeline proposed to be replaced by new pipeline over the years 1978-80 in an application filed in Docket No. CP78-143 filed concurrently herewith. Petitioner asserts that this modified wet gas replacement program would result in less cost to the company and its customers and less environmental impact, while satisfying existing standards of safety and continuity of service.

It is stated that the following data summarize the advantages of the wet gas replacement program as modified:

ORIGINAL PLAN (AS AMENDED THROUGH 1977)

REMAINING WORK TO BE COMPLETED 1978-1980

1. Construct and operate 74.3 miles of new pipeline.
2. Reclassify from dry gas transmission to wet gas transmission zero miles of pipeline.
3. Relocate 440 horsepower.
4. Abandon 123.6 miles of pipeline.
5. Reclassify to production or distribution zero miles of pipeline. Estimated cost of above work 1978-1979, $12,667,493.

REVISED PLAN 1978-1980

WORK TO BE COMPLETED

1. Construct and operate 45.3 miles of new pipeline.
2. Reclassify from dry gas transmission to wet gas transmission 68.1 miles of pipeline.
3. Relocate 2440 horsepower.
4. Abandon 59.8 miles of pipeline.
5. Reclassify to production or distribution 63.3 miles of pipeline.

Estimated cost of above work 1978-1980, $7,326,600.

Estimated Net Reduction in Capital Costs, $5,340,893.

It is not anticipated that any customer's service would be terminated as a result of the abandonments proposed herein, it is said.

The petition states that the annual expenses should be reduced due to the elimination of gas losses as described in the original application herein. The petition further states that the estimated costs of the proposed facilities for all three years would be $17,421,337, which cost would be furnished from funds on hand and funds to be obtained from Petitioner's parent, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2548 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP71-290]

CONSOLIDATED SYSTEM LNG CORP.

Petition To Amend

JANUARY 25, 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 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 FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. 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 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 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.

Take notice that on January 17, 1978, Consolidated System LNG Corporation (Consolidated LNG) tendered for filing a petition to amend its Certificate of Public Convenience and Necessity in the above-captioned proceeding. Consolidated LNG states that the proposed amendment to the certificate of public convenience and necessity was prepared and filed in accordance with a Settlement Proposal filed as an appendix to the petition to amend, and which is allegedly intended to resolve a dispute between Consolidated LNG and the Public Service Commission of the State of New York regarding Consolidated LNG's initial tariff submitted on August 5, 1977, in the above-captioned proceeding.

Consolidated LNG states that on August 5, 1977, in accordance with ordering paragraph F(2) b of the Commission's Opinion No. 622,[1] a tariff, with accompanying rate schedules was filed with the Commission. Petitioner further declares that the Commission's Opinion No. 622, issued on June 28, 1972, granted to Consolidated LNG a certificate for the construction and operation of facilities and for the interstate transportation and sale of imported LNG for resale. The certificate is said to have been issued including the condition that Consolidated LNG, consistent with its unaccepted offer of settlement; provide in its rate schedule for an initial rate of return on equity not to exceed 12 percent to be applied to the net investment rate base less the outstanding long-term debt obliga-

[1] *Columbia LNG Co., et al.*, Docket Nos. CP71-68 et al., Opinion No. 622, 47 FPC 1624 (1972), as amended after rehearing by Opinion No. 622-A, 48 FPC 723 (1972).

tions of consolidated LNG; provided however, that in no event shall the rate of return on equity be applied to more than 54 percent of Consolidated LNG's net investment without prior approval first having been sought and obtained from the Commission.

Consolidated LNG alleges that its offer of settlement included a reservation of the right to file for more than 12 percent return on equity if financial conditions changed from those existing in July, 1971. The Consolidated LNG's August 5 transmittal letter with the proposed initial tariff detailed increases in the cost of capital which in Consolidated LNG's opinion require a return on equity of 15 percent.

On August 19, 1977, it is stated that the New York Commission filed a motion to reject the tariff filing tendered by Consolidated LNG and seeking an order directing Consolidated LNG to file tariff sheets incorporation a 12 percent return on equity in conformity with ordering paragraph F(2)b of Opinion No. 622. On September 5, 1977, Consolidated LNG filed a response to the New York Commission's motion requesting that, if Consolidated LNG's filing was procedurally defective, the Commission treat the filing as a motion to amend ordering paragraph F(2)b of Opinion No. 622. In that same filing, Consolidated LNG urged the Commission to schedule a prehearing conference to explore the possibility of settlement of the dispute between the New York Commission and Consolidated LNG. On September 15, 1977, the New York Commission replied to Consolidated LNG's response and indicated its willingness to participate in efforts to expedite the proceedings, although maintaining its position that Consolidated LNG could not implement its compliance tariff filing.

Consolidated LNG states that on December 9, 1977, it filed a motion to convene a settlement conference to resolve the dispute between itself and the New York Commission. Subsequently settlement conferences were scheduled pursuant to letter notice issued by Commission Staff. Pursuant to the notice, settlement conferences were held on January 5 and 9, 1978. Consolidated LNG states that as a result of the settlement conferences, Consolidated LNG filed the Settlement Agreement and Motion to Amend the Certificate of Convenience and Necessity that are the subject of this notice.

Consolidated LNG states that its Petition to Amend the Certificate seeks to eliminate the condition in its certificate, set out in ordering paragraph F(2)b. specifying a 12 percent return on equity. Consolidated LNG further states that the condition is no longer necessary in view of its agreement to file substitute tariff sheets providing that the rate of return applicable to Consolidated LNG will be the rate or return the same as the effective rate of return reflected in rates being collected by Consolidated Gas Supply Corporation pursuant to order to the Federal Energy Regulatory Commission, or its predecessor the Federal Power Commission applied to Consolidated LNG's net investment rate base related to the certificated facilities and services. Consolidated LNG states that the return so calculated shall be subject to appropriate reduction and refunds commensurate with those ordered by the Commission with respect to rate of return collected by Consolidated Gas Supply Corporation, subject to refund.

Consolidated LNG states that the precise date of the commencement of sales and services pursuant to the provisions of the revised tariff is not known, but LNG deliveries to Consolidated LNG are expected to begin in the first quarter of 1978. Accordingly, the rates reflected in the revised tariff sheet filed pursuant to the terms of the Settlement Proposal are filed to become effective upon the initiation of deliveries to Consolidated Gas Supply Corporation.

Copies of Consolidated LNG's filings are on file with the Commission and are available for public inspection. Accordingly, any person desiring to file comments on the Settlement Proposal, or to respond to the Petition to Amend the Certificate of Public Convenience and Necessity or to petition for leave to intervene in the proceeding should, on or before February 17, 1978, file comments on a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the commenters parties to the proceeding. Any person seeking to become a party to the proceeding, and who has not already done so, must file a petition to intervene.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2549 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP77-39]

IOWA POWER AND LIGHT CO.

Petition To Amend

JANUARY 24, 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 (FPC) 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 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 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 tranferred 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 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.

Take notice that on December 27, 1977, Iowa Power and Light Co. (Petitioner), 666 Grand Avenue, Des Moines, Iowa 50309, filed in Docket No. CP77-39 a petition to amend the FPC's declaration of exemption issued September 19, 1977, in said docket pursuant to Section 1(c) of the Natural Gas Act, all as more fully set forth in the petition on file with the FERC and open to public inspection.[1]

The petition indicates that on August 1, 1977, Petitioner, Northern Natural Gas Co. (Northern) and North Central Public Service Co. (North Central) entered into a gas transportation agreement which is included in Northern's pending application in Docket No. CD77-600. Petitioner states that this application requests, in part, that Northern be granted authorization pursuant to Section 7(c) of the Natural Gas Act to implement the gas transportation agreement by delivering natural gas in specified volumes to Petitioner at Northern's Des Moines, Iowa, TBS No. 1 for the account of North Central for storage by Petitioner in its LNG facility during the summer season (March 27-November 26), and that redeliveries of this gas be

[1] The petition to amend was initially tendered for filing on December 27, 1977; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 19, 1978; thus, filing was not completed until the latter date.

accomplished by displacement through reduction of deliveries to Petitioner at TBS No. 1 and that natural gas so displaced would be provided to North Central at specified times and delivery point in Iowa during the winter season (November 27-March 26 next following). On November 25, 1977, the FERC issued a temporary certificate to Northern in Docket No. CP77-600. Petitioner states that the temporary certificate was conditioned upon Petitioner's seeking amendment of the declaration of exemption issued in the instant docket and that the instant petition to amend is in response to that condition. It is further stated that the instant petition to amend is intended to implement a liquefied natural gas storage agreement, dated August 2, 1977, between Petitioner and North Central.

Petitioner indicates that under the previously unamended terms of the gas storage agreement, it is obligated to receive natural gas for liquefaction and storage for the account of North Central during the summer season and to vaporize and redeliver equivalent volumes to North Central in the winter season up to a maximum obligation of 16,000 Mcf. It is indicated that since authorization to transport the subject gas during the summer season was granted November 25, 1977, Petitioner has not received any such volumes for the account of North Central. Petitioner states that at the present time, it has determined that it has supplies of liquefied natural gas in its LNG facility available for delivery and transportation to North Central which would partially alleviate North Central's winter season supply needs, and that Petitioner is prepared to obligate 16,000 Mcf of gas presently in its LNG storage facility for delivery to North Central during the 1977-78 winter heating season.

It is indicated that Petitioner and North Central have agreed to amend the liquefied natural gas storage agreement, dated August 2, 1977, so as to allow the storage, vaporization, and delivery by displacement through Northern's system to North Central of this quantity of gas during the 1977-78 winter season. Petitioner proposes immediately to credit to the account of North Central 16,000 Mcf of gas from its LNG facility to be available to North Central for delivery during the 1977-78 heating season, and North Central would return said gas to Petitioner during the 1978 summer season.

Accordingly, Petitioner requests amendment of the declaration of exemption issued in the subject docket so as to exempt from the provisions of the Natural Gas Act the transportation, predelivery, storage, and replacement transfer of natural gas in the operations of Petitioner's gas distribution, storage, and LNG facilities connected to the facilities of Northern in Polk County, Iowa. It is stated that the Iowa State Commerce Commission exercises jurisdiction over the rates, service, and facilities of Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 16, 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 person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2544 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP60-44]

MICHIGAN WISCONSIN PIPE LINE CO. AND TEXAS GAS TRANSMISSION CORP.

Petition To Amend

JANUARY 25, 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 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 FPC on the Date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. 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 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 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 porceeding in accordance with the above mentioned authorities.

Take notice that on January 5, 1978, Michigan Wisconsin Pipe Line Co. (Mich-Wisc), One Woodward Avenue, Detroit, Mich. 48226, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, Ky. 42301 (Petitioners) filed in Docket No. CP60-44 a joint petition to amend the order of August 11, 1960, issued by the Federal Power Commission (FPC) in the instant docket (24 FPC 212) pursuant to Section 7(c) of the Natural Gas Act so as to provide for additional exchange points, all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of August 11, 1960 in the instant docket and to an exchange agreement, dated February 15, 1960, Mich-Wisc, successor-in-interest to American Louisiana Pipe Line Co., and Texas Gas established four exchange points for deliveries of natural gas between them.

It is indicated that by an amended gas exchange agreement, dated December 9, 1977, between Petitioners, Petitioners have amended the February 15, 1960 exchange agreement to provide for the following points of delivery:

(1) Where Mich-Wisc's pipeline interconnects with the 26-inch line of Texas Gas near Slaughters, in Webster County, Ky.

(2) At the various interconnections of the facilities of Mich-Wisc and Texas Gas located near Eunice, in Acadia Parish, La.

(3) Where Mich-Wisc's pipeline interconnects with the 10-inch line of Texas Gas in Cameron Parish, La.

(4) Where Mich-Wisc's pipeline intersects the 16-inch line of Texas Gas near Bedford, in Lawrence County, Ind.

(5) Where Mich-Wisc's Pipeline interconnects with the 4-inch line of Texas Gas near Lewisburg, in St. Landry Parish, La.

(6) At the tailgate of the Atlantic Richfield Gasoline Plant in St. Mary's Parish, La., where Mich-Wisc and Texas Gas both have facilities.

(7) Where Mich-Wisc's pipeline interconnects with the 12-inch line of Texas Gas in St. Mary's Parish, La.

(8) At the interconnection of Mich-Wisc's 30-inch pipeline and Texas Gas' Eunice-Grand Cheniere line near Grand Cheniere, Cameron Parish, La.

(9) At or near the existing interconnection of Mich-Wisc's offshore pipeline system and Texas Gas' offshore pipeline system in Eugene Island Block 250, Offshore Louisiana.

(10) At Block 208, Eugene Island, Offshore Louisiana, where Mich-Wisc's offshore pipeline system is connected to offshore reserves being purchased by Texas Gas.

(11) At Block 259, Eugene islands Area, Offshore Louisiana, where Mich-Wisc's offshore system interconnects with Texas Gas' offshore pipeline system.

(12) At Block 10, South Marsh Island, Offshore Louisiana, where Mich-Wisc's offshore pipeline system interconnects with Texas Gas' offshore pipeline system.

(13) At Block 204, Ship Shoal Area, Offshore Louisiana, where Mich-Wisc's offshore pipeline system is connected to offshore reserves being purchased by Texas Gas.

It is stated that the proposed amended gas exchange agreement would permit Petitioners to make deliveries of natural gas to each other when such deliveries can assist the other in fulfilling its system obligations, and that the additional exchange points would provide added flexibility of operation and continuity of service for Petitioners.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2550 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP 78-98]

TEXAS GAS TRANSMISSION CORP.

Amendment to Application

JANUARY 25, 1978.

Take notice that on December 29, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-98 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to provide for certain revisions, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that on November 22, 1977, Applicant filed an application in the instant docket requesting authorization to transport, on an interruptible basis, volumes of natural gas for the account of the Aluminum Co. of America (Alcoa), and to deliver such volumes to four interstate pipelines for ultimate delivery to five Alcoa facilities.

Applicant states that subsequent to its filing of the November 22, 1977, application, it has determined that the subject application should be amended as follows:

(1) Reduce the volumes of gas that Applicant proposes to deliver to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee Gas), by means of a dispatching arrangement at the tailgate of the Champlin Gasoline Plant in Panola County, Tex., where Applicant and Tennessee Gas both have facilities, for ultimate delivery to Alcoa's Alcoa, Tennessee, plants from 3,816 Mcf per day to 3,136 Mcf per day.

(2) Reduce the volumes of gas that Applicant proposes to deliver to Columbia Gas Transmission Corp. (Columbia) at an existing point of interconnection located near Lebanon, Ohio, for ultimate delivery to Alcoa's fabricating facility at Lebanon, Pa., and Res's magnet wire manufacturing facility at Buena Vista, Va., from 719 Mcf per day to 657 Mcf per day.

(3) Reduce the volumes of gas that Applicant proposes to retain of the volumes delivered to Tennessee Gas for the account of Alcoa as makeup for compressor fuel and line loss from 1.58 percent to 0. Applicant would not retain any of the volumes delivered to Tennessee Gas for the account of Alcoa as make up for compressor fuel and line loss.

(4) Reduce the volumes of natural gas that Applicant would transport for the account of Alcoa from 5,187 Mcf per day to 5,075 on both a peak day and an average day for each month of the transport period, and reduce the volumes of gas that Applicant would transport for Alcoa on an annual basis from up to 1,893,255 to up to 1,852,375 Mcf.

(5) Replace pages 2 and 3 of Alcoa's affidavit relating to its Tennessee, facility with revised pages 2 and 3, attached to the amendment on file with the Commission, which pages contain the following revisions:

(a) Increase the volumes of gas which Applicant has contracted to purchase from PAR Oil Corporation (PAR) from 3,164 Mcf per day to 3,186 Mcf per day.

(b) Increase the volumes of gas which Alcoa's Tennessee Operations would take on a peak day from 3,164 Mcf to 3,186 Mcf; on an average day, from 2,373 Mcf to 2,390 Mcf, and the Tennessee Operations have a take or pay obligation based upon 1,793 Mcf of natural gas per day instead of the 1,875 Mcf per day as set forth in the original affidavit.

(c) Table A of the affidavit has been revised as follows:

From:

TABLE A

[FIGURES GIVEN IN 1,000 FT³]

	Priority 2 requirements	East Tennessee	PAR	Propane
November 1977	303,000	213,810	90,000	
December 1977	313,100	220,100	93,000	
January 1978	368,900	220,100	93,000	[1] 55,800
February 1978	333,000	198,800	84,000	[2] 50,400
March 1978	368,900	220,100	93,000	[1] 55,800
April 1978	357,000	303,000	56,250	
May 1978	367,900	313,100	58,130	
June 1978	357,000	303,000	56,250	

[1] 613,000 gal.
[2] 544,000 gal.

To:

TABLE A

[FIGURES GIVEN IN 1,000 FT³]

	Priority 2 requirements	East Tennessee	PAR	Propane
November 1977	303,000	229,557	73,443	
December 1977	313,100	211,366	101,348	
January 1978	368,900	215,366	93,000	60,534
February 1978	333,000	208,816	84,000	40,184
March 1978	368,900	210,760	93,000	65,140
April 1978	357,000	303,000	54,000	
May 1978	367,900	313,100	54,800	
June 1978	357,000	303,000	54,000	

[1] 5659,820 gal.
[2] 438,007 gal.
[3] 710,026 gal.

(d) The volumes of natural gas to be purchased on a peak day and average day for each month under the proposed transport during the transport period is revised as follows:

FROM:

Period	Peak day (1,000 ft³)	Average day (1,000 ft³)
November 1977 to March 1978	3,164	2,373
April 1978 to June 1978	3,165	2,373

TO:

Period	Peak day (1,000 ft³)	Average day (1,000 ft³)
November 1977 to March 1978	3,186	2,390
April 1978 to June 1978	3,186	2,390

(e) Increase the average and maximum annual volumes to be purchased under the PAR contract from 866,145 Mcf and 1,154,860 Mcf, respectively, to 872,350 Mcf and 1,162,890 Mcf, respectively.

It is stated that Alcoa's Tennessee Operations, therefore, requests Commission approval for delivery by Applicant, Tennessee Gas and East Tennessee Natural Gas Co. (East Tennessee) of volumes of gas up to 3,186 Mcf per day and 1,162,890 Mcf per year to Tennessee Operations. For each month of the proposed transport period, the proposed end use of such natural gas is Priority 2 process use, it is said.

It is indicated in Alcoa's revised affidavit that Tennessee Gas would, under its transportation agreement with Tennessee Operations, require 3.63 percent of the PAR gas for company and unaccounted-for use, instead of the 3 percent stated in the original affidavit. It is further indicated that Tennessee Gas would also charge 12.59 cents for transporting the PAR gas, instead of the 24.4 cents stated in the original affidavit.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 13, 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. All persons who have heretofore filed need not file again.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2540 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-150]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JANUARY 25, 1978.

Take notice that on January 10, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-150 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 10,000 dekatherms (dt) equivalent of natural gas per day for Texas Eastern Transmission Corp. (Texas Eastern), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Texas Eastern would deliver or cause to be delivered into Applicant's existing facilities in Jefferson Davis County, Miss. up to 10,000 dt of natural gas per day at the following locations:

(a) Section 27, Township 7 North, Range 17 West, Jefferson Davis County, Miss.;

(b) Section 28, Township 7 North, Range 17 West, Jefferson Davis County, Miss.; and

(c) Section 32, Township 7 North, Range 17 West, Jefferson Davis County, Miss.

Applicant states that it would redeliver equivalent quantities received by it from Texas Eastern to Texas Eastern at the St. Francisville interconnection, East Feliciana Parish, La., or any other mutually agreeable existing authorized point or exchange between Applicant and Texas Eastern in Texas or Louisiana.

The application states that Texas Eastern would pay Applicant for the proposed transportation service initially a charge of 3.5 cents per dt delivered. The application further states that Texas Eastern would also reimburse Applicant for the actual cost of installing the necessary appurtenances to accommodate the receipt of gas from Section 32, which cost is estimated to be $1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2554 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CP77-495, et al.]

TRANSCONTINENTAL GAS PIPELINE CORP.

Order Consolidating Proceedings, Dismissing Petitions for Declaratory Orders, and Staying Further Proceedings; correction

DECEMBER 14, 1977.

In FR Doc. 77-36310 appearing at page 63947 in the issue for Wednesday, December 21, 1977, in ordering paragraph (c), page 63950, change "synthetic gas" to "natural gas".

Dated: January 11, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2558 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. ER78-154]

WISCONSIN POWER AND LIGHT CO.

Filing of Letter Agreement; Correction

On page 1650 in the issue January 11, 1978, make the following correction:

The following correction to the second paragraph of the above-cited notice is made:

WPL indicates that said Letter Agreement provides for WPL, MGE, WPS, collectively, to supply WE with 155,000 kW of limited term power for the twelve month period beginning June 1, 1978* and ending May 31, 1979; up to 180,000 kW of available short-term power for the twelve month period beginning June 1, 1978 and ending May 31, 1979; 85,000 kW of limited term power for the twelve month period beginning June 1, 1979 and ending May 31, 1980; and up to 100,000 kW of available short Term power for the twelve month period beginning June 1, 1979 and ending May 31, 1980.

Dated: January 18, 1978.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2559 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CS73-392, et al.]

ZOLLER & DANNEBERT, INC. ET AL.

Applications for "Small Producer" Certificates; Correction

JUNE 15, 1977.

On page 32586 in the issue of June 27, 1977, make the following correction:

Tabulation, Page 2, Docket No. CS77-576, Under Column headed "Applicant" change "Kentucky Rover Coal Corporation" to read "Kentucky River Coal Corporation," opposite Docket No. CS77-576.

Dated: January 5, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2557 Filed 1-30-78; 8:45 am]

[6740-02]

EXXON CORP. ET AL.

[Docket Nos. CI77-224, et al.]

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Erratum

JANUARY 5, 1978.

TABULATION, Page 3, Docket No. CI77-695, *South Louisiana Production.* Under Column headed "Docket No. and Date Filed" change "C" to read "A" under Docket No. CI77-695.

Issued: November 9, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2555 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-145]

FLORIDA GAS TRANSMISSION CO.

Application

JANUARY 24, 1978.

Take notice that on January 5, 1978, Florida Gas Transmission Co. (Applicant), P.O. Box 44, Winter Park, Fla. 32790, filed in Docket No. CP78-145 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 2 billion Btu's equivalent of natural gas per day for Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Transco has requested Applicant's assistance in transporting certain quantities of natural gas from St. Martin Parish, La., to St. Helena Parish, La. It is indicated that pursuant to a transportation agreement between Applicant and Transco dated October 11, 1977, Transco would deliver or cause to be delivered, to Applicant up to 2 billion Btu's per day at the flange or weld connecting Applicant's existing facilities with those of Texaco, Inc. (Texaco), on the discharge side of Texaco's Alligator Bayou Processing plant in St. Martin Parish, La., and Applicant would redeliver equivalent million Btu's less 1 percent of the billion Btu's delivery quantity which Applicant would use to offset compressor fuel, unaccounted for losses, etc., to Transco at the existing authorized interconnection of Applicant's and Transco's facilities in St. Helena Parish, La., or at any other existing authorized interconnection which may be mutually agreeable to Applicant and Transco. It is further indicated that Applicant's obligation to receive, transport and redeliver are subject to its operating requirements and the availability of excess capacity in its existing compression and pipeline facility.

It is stated that Transco would pay Applicant 10.1 cents per million Btu's for each million Btu's redelivered at the point of redelivery.[1] The transportation rate is composed of a facility charge (8.6 cents per million Btu's redelivered at the point of redelivery) and a service charge (1.5 cents per million Btu's redelivered at the point of redelivery), it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requiremnts 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2543 Filed 1-30-78; 8:45 am]

[1] The agreement also provides for a minimum charge of $500.000 per calendar month if the sum of the facility and service charges multiplied by the redelivery volume is less than that amount, it is stated.

[6740-92]

[Docket No. CP78-153]

MISSISSIPPI RIVER TRANSMISSION CORP.

Application

JANUARY 25, 1978.

Take notice that on January 12, 1978, Mississippi River Transmission Corp. (Applicant), P.O. Box 14521, St. Louis, Mo. 63178, filed in Docket No. CP78-153 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 25,000 Mcf of natural gas per day for United Gas Pipe Line Co. (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport on a best efforts basis up to 25,000 Mcf of natural gas per day for United pursuant to a gas transportation agreement dated December 22, 1977, between Applicant and United. It is stated that such gas would be made available to Applicant by United at the outlet side of the Woodlawn Field processing plant of Dorchester Gas Processing Co. (Dorchester) located in Harrison County, Tex.; and Applicant would redeliver equivalent volumes to United States's Perryville Compressor site located in the Monroe Field, Ouachita Parish, La. Any imbalances between United's deliveries to Applicant and Applicant's redeliveries to United which may occur because of dispatching or other variations would be corrected, insofar as practicable, during the month following the month in which such imbalances occurred, it is said.

Applicant indicates that it would charge United a rate of 15.79 cents per Mcf of natural gas received by Applicant from United and redelivered by Applicant to United, which rate is Applicant's current average unit transmission cost of service.

The application states that the natural gas which would be received by Applicant and redelivered by Applicant to United in accordance with the proposed gas transportation agreement is gas which United would purchase for a one year period from East Texas Industrial Gas Co. (East Texas). It is stated that East Texas proposes to make this sale to United on a limited term basis pursuant to section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) and that East Texas has filed an application with the Commission for limited term authorization in Docket No. CI78-193 to make this sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 10, 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2551 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-144]

NORTHWEST PIPELINE CORP.

Application

JANUARY 25, 1978.

Take notice that on January 5, 1978, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-144 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 105 million Btu's equivalent of natural gas per day, on an as available basis, for Natural Gas Pipeline Company of America (Natural), for a term commencing on the date of issuance of the requested authorization and continuing through December 31, 1978, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Natural and Colorado Interstate Gas Co. (CIG) have entered into an agreement dated December 6, 1977, which provides that CIG would sell to Natural up to 100,000 Mcf of natural gas per day during calendar year 1978 and that the sale would be at the existing point of interconnection between the facilities of Applicant and CIG in the vicinity of Green River, Wyo. It is further indicated that Applicant was heretofore authorized to transport volumes of natural gas for the account of Natural pursuant to the Federal Power Commission (FPC) order of September 13, 1977, in Docket No. CP77-457 and to an agreement dated June 15, 1977, between Applicant and Natural, which agreement expired October 31, 1977.

The application states that in order to make such gas as Natural may purchase from CIG available to its transmission system, Applicant and Natural have entered into a gas transportation agreement dated December 19, 1977, whereby Applicant would transport up to 105 billion Btu's per day on an as available basis for Natural. It is indicated that Natural would cause CIG to deliver or otherwise make available to Applicant and Applicant would accept for Natural's account, on an as available basis, up to 105 billion Btu's per day at an existing point of interconnection between the facilities of CIG and Applicant in the vicinity of Green River, Wyo. Applicant indicates that it would redeliver equivalent million Btu's to El Paso Natural Gas Co. (El Paso) for the account of Natural at an existing point of interconnection between the facilities of Applicant and El Paso in the vicinity of Ignacio, Colo.

The application states that deliveries by CIG to Applicant for the account of Natural would be made by Applicant reducing the volume of natural gas it would otherwise deliver to CIG pursuant to Applicant's presently effective FERC Gas Rate Schedule PL-1, and that Applicant would concurrently redeliver equivalent volumes, adjusted for heating value, to El Paso, for Natural's account, at the aforementioned point of interconnection between Applicant and El Paso.

It is stated that Applicant would charge Natural 8.0 cents per million Btu's for the proposed transportation service, which rate represents approximately one-half of Applicant's system average transmission cost, exclusive of fuel, of 16.03 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 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.

Take further notice that, pursuant to the authority contained in the subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2552 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CP68-166, et al.]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Petition To Amend

JANUARY 25, 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 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 FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. 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 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 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.

Take notice that on January 5, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-166, et al., a petition to amend the order of December 2, 1975 (54 FPC ——) issued by the Federal Power Commission (FPC) in the instant dockets pursuant to section 7(c) of the Natural Gas Act so as to authorize the rendition of natural gas service to Boston Gas Co. (Boston) under a new gas sales contract providing for a revised daily volume limit for the Beverly-Salem delivery point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of December 2, 1975, Petitioner was granted authorization in the instant docket inter alia, to serve Boston under Petitioner's rate schedule CD-6 in lieu of Petitioner's rate schedule G-6 and/or GS-6 and to render such service with revised daily volume limits by delivery points. Accordingly, Petitioner is now serving Boston under Petitioner's rate schedule CD-6 and the terms and conditions of a gas sales contract dated July 24, 1975, between the two parties, which provides for the sale and delivery by Petitioner of a contracted demand of 93,912 Mcf of natural gas per day, it is asserted.

Petitioner indicates that pursuant to the FPC order of December 2, 1975, in the instant dockets and the gas sales contract dated July 24, 1975, Petitioner provides the following daily volume limits by delivery points:

Delivery points:	*Daily volume limits (mcf)*
Leominster	5,100
Clinton	2,700
Southbridge	7,000
Spencer	3,800
Gloucester	4,895
Beverly-Salem:	
Beverly-Salem	12,035
West Peabody	1,899
Lynn:	
Lynn	20,000
Lynnfield	2,500
Mystic Valley:	
Arlington	35,000
Burlington	7,293
Lexington	3,500
Reading	3,825
Revere	5,911

It is stated that the total daily volume limits exceeds Boston's contracted demand of 93,912 Mcf per day in order to provide Boston with operational flexibility among delivery points; however, Boston is not entitled to take on any day a total of more than 93,912 Mcf at the various delivery points.

It is indicated that Boston has requested that Petitioner change the daily volume limit for the Beverly-Salem delivery point from 12,035 Mcf per day to 15,000 Mcf per day. By having the flexibility of 15,000 Mcf per day at the Salem/Beverly Station, Boston would save approximately 217,987 Mcf of LNG vaporization at the Salem Plant, it is said. The petition states that the Salem LNG plant is capable of storage and vaporization only and the LNG must be trucked in, and that with the higher volume limit for the Beverly-Salem delivery point and the concomitant flexibility afforded Boston, Boston estimates that it would annually save the cost of 256 truckloads of LNG.

Consequently, Petitioner and Boston have entered into a precedent agreement dated December 4, 1977, which provides, among other things, for the execution, upon receipt of the requested FERC authorization herein, of a new gas sales contract providing for the Beverly-Salem delivery point.

Petitioner states that such revised service and the new gas sales contract would not permit Boston to receive any more natural gas from Petitioner than Boston is now authorized to receive under its present gas sales contract and the proposed change would not increase or decrease the annual volumetric limitation imposed on Petitioner's system in Opinion Nos. 712 and 712-A for sales to Boston.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2553 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. RP71-18, et al., and RP73-86]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Plan of Refund

JANUARY 25, 1978.

Take notice that on December 29, 1977, Columbia Gas Transmission Corp. (Columbia) tendered for filing a proposed plan of refund to flow-through interest received from Forest Oil Corp. (Forest) associated with an advance payment of $10 million.

Columbia states that it has received interest payments to date from Forest totaling $3,495,938.54 and proposes to make disposition of said interest amount as follows:

(a) Refund to customers an interest amount of $1,425,942.00 applicable to the period during which the subject advance payment was reflected in Columbia's wholesale rates, i.e., April 14, 1971, to October 31, 1974. In order to avoid the difficulty, time and cost involved in gathering and collating necessary records to make refunds, the fact that there are pending payments still to be refunded over the next three years, and in light of the minor amounts involved, Columbia requests permission to place this interest to be refunded to its customers in Account No. 191. Columbia believes that this plan will benefit both Columbia and its customers.

(b) Credit the remaining amount received to date of $2,069,996.54 to Account No. 419. The use of this account was prescribed by Commission's Order issued August 15, 1974, in Docket No. RP75-4.

Copies of this filing were served upon the company's jurisdictional customers and interested state commissions.

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 17, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2610 Filed 1-30-78; 8:45 am]

[6740-02]

[Project No. 2740]

DUKE POWER CO.

Re-Notice of Application for Amendment of License[1]

JANUARY 25, 1978.

Public notice is hereby given that an application was filed with the Federal Energy Regulatory Commission on December 9, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Duke Power Co. (Applicant) (correspondence to: L. C. Dail, Chief Engineer, Civil-Environmental Division, Duke Power Co., Box 2178, Charlotte, N.C. 28242) for Commission approval, of an amendment to Article 32 of the license for Project No. 2740, the Bad Creek Project, the upper reservoir of which is to be located on Bad and West Bad Creeks in Oconee County, S.C. The project's lower reservoir would utilize existing Lake Jocassee.

Article 32 of the license issued August 1, 1977, requires among other things the filing of a detailed plan to mitigate any adverse impaces of project operations on Lake Jocassee and stream fisheries. The plan was to include, but not be limited to, those measures agreed upon between Applicant and the South Carolina Wildlife and Marine Resources Department (SCWMRD) as set forth in a letter to the Federal Power Commission dated January 10, 1977. One of the provisions of this letter provided for the transfer of property from Applicant to SCWMRD called the Eastatoe Creek Tract. Now Applicant and SCWMRD wish to substitute a tract of land for the Eastatoe Tract. The new tract is a parcel of land along the Whitewater River in Oconee County, but bordering Transylvania County, N.C., containing about 375 acres, presently in the possession of the Crescent Land and Timber Corp., a wholly owned subsidiary of Applicant.

Any person desiring to be heard or to make any protest with reference to said application should 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 § 1.10). All such petitions or protests should be filed on or before March 25, 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 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2611 Filed 1-30-78; 8:45 am]

[1] Notice of this application for amendment of license was issued on January 17, 1978; however, through administrative error, timely newspaper publication was not made.

[6740-02]

[Docket No. CP78-142]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

JANUARY 25, 1978.

Take notice that on January 4, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP78-142 an application pursuant to Section 7 of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the 12-month period commencing February 12, 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open for public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000 with the cost of any single project cost not to exceed $500,000. Applicant states that it would finance the proposed facilities with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 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 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing

therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2612 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP 78-148]

MISSISSIPPI RIVER TRANSMISSION, CORP.

Application

JANUARY 25, 1978.

Take notice that January 10, 1978, Mississippi River Transmission Corp. (Applicant), P.O. Box 14521, St. Louis, Mo. 63178, filed in Docket No. CP78-148 an application pursuant to section 7(b) of the Natural Gas Act and § 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon during the twelve-month period commencing February 1, 1978, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sale measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of natural gas during the last year of service.

The application states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 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 157.70). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2613 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP74-133]

MOUNTAIN FUEL SUPPLY CO.

Petition To Amend

JANUARY 25, 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 provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. 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 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.

Take notice that on November 21, 1977,[1] Mountain Fuel Supply Co. (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP74-133 a petition to amend the order of May 3, 1976 (55 FPC) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize an additional point of delivery by Petitioner to Colorado Interstate Gas Co. (CIG), all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of May 3, 1976, issued in the instant docket Petitioner was granted authorization to transport and exchange natural gas with CIG, and that pursuant to authorization granted in Docket Nos. CP74-144 and CP74-133, natural gas is delivered to CIG by Petitioner at a delivery point in Sweetwater County, Wyo. It is indicated that CIG has the option to purchase 25 percent of all gas volumes so delivered. Redelivery by CIG to Petitioner is at an existing point of interconnection between Petitioner's and CIG's systems in Sweetwater County, Wyo., it is indicated. It is stated that Petitioner has certain quantities of gas

[1] The petition was initially tendered for filing on November 21, 1977; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 12, 1978; thus, filing was not completed until the latter date.

in a location remote from its system, and that by virtue of the exchange, Petitioner is able to make this gas available to its customers and CIG receives 25 percent of the gas to assist in meeting its customer requirements.

By this petition Petitioner requests that the FPC order of May 3, 1976, in the instant docket be amended to include an additional point of delivery by Petitioner to CIG in Sweetwater County, Wyo. Petitioner proposes to connect a new gas supply it has purchased from the Luff/Amoco Well No. 4-25 located in Sweetwater County, Wyo. It is indicated that estimated recoverable reserves are 4,000,000 Mcf and initial average daily production is estimated to be 809 Mcf per day.

Consequently, Petitioner and CIG have agreed to amend the gas purchase and exchange agreement dated September 10, 1973, to include the new delivery point on CIG's system to receive this new gas, it is said. Petitioner states that it would be necessary for it to install only minor facilities to deliver and measure gas at the new Petitioner-CIG delivery point, and that CIG would provide a suitable valve to receive deliveries at that point. The cost of facilities proposed to be installed is estimated to be less than $7,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 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 interevene in accordance with the Commision's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2614 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-151]

NORTHERN NATURAL GAS CO.

Application

JANUARY 25, 1978.

Take notice that on January 11, 1978, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Neb. 68102, filed in Docket No. CP78-151 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation by displacement volmues of propane-air up to 9,000 Mcf per day for Northern States Power Co. of Wisconsin (NSP-W), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport by displacement volumes of propane-air up to 9,000 Mcf per day for NSP-W pursuant to an agreement dates December 27, 1977, among applicant, NSP-W and Northern States Power Co. (NSP) Applicant states that it would at the direction of NSP-W transport by displacement during the period November 27 through April 15 (winter season) volumes of propane-air up to 9,000 Mcf per day to NSP-W's delivery point in LaCrosse, Wis. It is indicated that the total daily volumes designated for transportation by NSP-W would be made available to applicant by NSP's injection of propane-air into its St. Paul distribution system and the concurrent reduction of authorized deliveris of natural gas by applicant to NSP at St. Paul, Minn., under applicant's CD-1 rate schedule. All winter season volumes of gas transported hereunder for NSP-W would be resold only to firm and small volumes customers, it is stated.

The application states that NSP-W would pay applicant an annual demand charge of $3.53 per Mcf for the maximum daily volume applicant is obligated to transport, and that NSP-W would also pay applicant a transportation charge of 3.43 cents per Mcf transported by applicant.

It is indicated that the volumes of propane-air which would be made available to NSP-W are required to enable NSP-W to meet the requirements of its existing high priority customers under design winter season conditions.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2615 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-152]

NORTHWEST PIPELINE CORP.

Application

JANUARY 25, 1978.

Take notice that on January 11, 1978, Northwest Pipeline Corp. (applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-152 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for, sale to and the exchange of natural gas with Mountain Fuel Supply Co. (Mountain Fuel), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to exchange up to 10,000 Mcf of natural gas per day with Mountain Fuel and to transport for and sell to Mountain Fuel up to 25 percent of the volumes of natural gas to be delivered to Mountain Fuel by applicant. It is indicated that applicant has contracted for the purchase of gas from Rainbow Resources, Inc. et al. (Rainbow), pursuant to a gas purchase agreement dated October 28, 1977, which agreement dedicates acreage to applicant, in Carbon County, Wyo., and Moffat County, Colo. (Stateline area), which is remote from applicant's existing transmission system. It is further indicated that applicant would pay Rainbow a base price of $1.46 for each Mcf delivered to applicant hereunder, which base price would be effective for a period ending September 30, 1977. It is stated that at the end of the aforementioned period and at the end of each 3-month period thereafter, the

base price would increase 1 cent per Mcf above the applicable price for the preceding period.

The application states that in order to make the volumes of natural gas to be purchased in the Stateline area available to its transmission system at the least possible investment, applicant entered into a gas purchase, transportation and exchange agreement dated November 14, 1977, with Mountain Fuel. The application further states that Mountain Fuel needs additional gas supplies to serve the requirements of its customers and therefore is willing to transport and exchange natural gas with applicant in return for the right to purchase up to 25 percent of the volumes of gas received for exchange, pursuant to the agreement dated November 14, 1977. The subject agreement provides that the price to be paid by Mountain Fuel for any gas sold by applicant to Mountain Fuel thereunder would be equal to the price paid by applicant, including adjustments, taxes, or other charges permitted under the applicable laws, and that Mountain Fuel would also reimburse applicant for applicant's cost-of-service, including a reasonable rate of return, for all costs incurred from the source of supply to the points of delivery to Mountain Fuel for any gas sold by applicant to Mountain Fuel.

It is indicated that applicant would deliver to Mountain Fuel all volumes of natural gas purchased by applicant in the Stateline area of Carbon County, Wyo.; and Moffat County, Colo., and that the volumes to be delivered to Mountain Fuel for exchange would be at mutually agreeable points on Mountain Fuel's pipeline facilities located in or near Carbon County, Wyo., and Moffat County, Colo. The volumes of gas to be delivered to Mountain Fuel under the authorization sought herein would be gathered by applicant in the Stateline area and transported to the facilities of Mountain Fuel, it is indicated.

It is further indicated that pursuant to a letter agreement dated October 28, 1977, Rainbow would construct the necessary pipelines to connect two wells (Federal No. 1-19 and State No. 1-9) to the existing pipeline of Mountain Fuel. Applicant states that it would pay Rainbow for the cost of connecting the two wells but such cost would not exceed $112,000, and that upon payment by applicant to Rainbow title to all facilities constructed by Rainbow would transfer to applicant. Applicant proposes to connect all five wells pursuant to the budget-type authorization issued it on September 30, 1977, in Docket No. CP77-507.

The application states that Mountain Fuel would receive for exchange such volumes as are delivered by applicant from the Stateline area and would redeliver equivalent volumes, subject to Mountain Fuel's option to purchase up to 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of applicant and Mountain Fuel in Sweetwater County, Wyo., where applicant is currently authorized to sell and deliver volumes of natural gas to Mountain Fuel. The volumes of gas so delivered and received for exchange would be balanced on a Btu basis and such balancing would, to the extent possible, be achieved monthly. Applicant estimates that initially the total volumes of gas to be delivered to Mountain Fuel would be approximately 1,900 Mcf per day of which Mountain Fuel would have the option to purchase 25 percent or approximately 475 Mcf per day, it is said.

It is indicated that applicant would reimburse Mountain Fuel for Mountain Fuel's transportation costs, including a reasonable rate of return, for all costs incurred from the delivery points to the existing point of interconnection with applicant, and that the initial transportation charge would be determined prior to the actual deliveries and would be determined in accordance with procedures normally used in the industry.

Applicant, in addition to the cost of the gas it proposes to sell to Mountain Fuel, proposes to charge Mountain Fuel an initial rate of 23.44 cents per Mcf for the gathering and transportation to Mountain Fuel of such volumes of natural gas as Mountain Fuel may purchase from applicant pursuant to its option.

Applicant proposes to construct the gathering and transmission facilities required to gather and transport the exchange and sales volumes proposed herein pursuant to §157.7(b) of the Commission's regulations and the order issued September 30, 1977, in Docket No. CP77-507. Applicant estimates that it would require approximately 4.6 miles of 4½-inch pipeline which applicant is paying Rainbow to construct.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2616 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CI77-681 and CI77-682]

SOUTHERN UNION SUPPLY CO.

Informal Conference

JANUARY 25, 1978.

Take notice that on February 1, 1978, commencing at 10 a.m., in Room 8402, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, there will be an informal conference in the above-referenced proceedings. Any interested persons may attend, but said attendance will not be deemed in itself to designate said persons as intervenors.

Discussion will be had on the facilities, transportation, and rate proposed by the applicant.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2617 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-149]

UNITED GAS PIPE LINE CO.

Pipeline Application

JANUARY 25, 1978.

Take notice that on January 10, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-149, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, as amended, authorizing the

transportation of natural gas for Chevron Chemical Co. (Chevron Chemical). United States that Chevron Chemical has arranged to purchase a supply of gas from a corporate affiliate Chevron U.S.A., Inc. (Chevron U.S.A.), which has reserved for its own use or for use by a corporate affiliate 25 percent of the gas produced from South Marsh Island area blocks 249, and 250, East Cameron area blocks 160 and 245, and West Cameron blocks 532, 533, and 534. Chevron Chemical has entered into transportation agreements with the pipeline purchasers of nonreserved gas, Texas Eastern Transmission Corp., Tennessee Gas Pipeline Co., Natural Gas Pipeline Co. of America, and Trunkline Gas Co. whereby such pipeline companies will transport and deliver such reserved volumes to United at various points of interconnection with the system of United. Texas Eastern will utilize an existing point near Gillis, Beauregard Parish, La.; Tennessee will utilize an existing point near Bayou Sale, St. Mary Parish, La.; Natural will utilize an existing point near Erath, Vermilion Parish, La.

United has agreed to receive up to 30,000 Mcf per day from such pipeline companies at the above-mentioned points for the account of Chevron Chemical; United thereafter will transport and redeliver such gas, less 1.5 percent for fuel and company used gas to Chevron Chemical for consumption in its existing ammonia plant located near Luling, St. Charles Parish, La. United further states that it has been advised by Chevron Chemical that such gas will be used as a process fuel in the manufacture of ammonia for fertilizer, a high priority end-use.

Any person desiring to be heard or to make any protest with reference to said application, on or before February 17, 1978, should 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 person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdication 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2618 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-156]

UNITED GAS PIPE LINE CO.

Application

JANUARY 25, 1978.

Take notice that on January 13, 1978, United Gas Pipe Line Co. (applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-156 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to the Town of Garrison, Nacogdoches County, Tex. (Garrison), Town of Joaquin, Shelby County, Tex. (Joaquin), and Town of Tenaha, Shelby County, Tex. (Tenaha), each a municipal corporation of the State of Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that in Docket Nos. G-232 and CP64-185 the Federal Power Commission authorized applicant to provide gas service to East Texas Municipal Gas Corp. (East Texas), owner of the local distribution system (system) which had collectively served Garrison, Joaquin, and Tenaha. The application states that East Texas has subsequently sold the respective portions of said system to Garrison, Joaquin, and Tenaha, on an individual basis, and that each town has requested that applicant continue natural gas service to it through deliveries to its independent, respective portion of said system.

Consequently, applicant requests authorization herein to continue the sale of gas, in the same quantity and with no proposed change in facilities and deliveries, to Garrison, Joaquin, and Tenaha pursuant to new service agreements dated September 28, 1977, which agreements reflect change in ownership of the system and provide for the continuation of gas service on the same terms and conditions as to the system to the new owners.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 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.

Take further notice that, pursuant to the authority contained in and subject 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-2619 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. IT-5501]

UTAH POWER AND LIGHT CO.

Re—Notice of Petition for Declaratory Order[1]

JANUARY 25, 1978.

Public notice is hereby given that a petition was filed on March 9, 1977, and supplemented on August 15, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, for a declaratory order respecting the status of three hydroelectric projects owned and operated by Utah Power and Light Co. (Petitioner) (Correspondence to: Sidney G. Baucom, Esq., Sam F. Chamberlain,

[1]Notice of this petition was issued on December 30, 1977; however, through administrative error, timely newspaper publication was not made.

Esq., P.O. Box 899, Salt Lake City, Utah 84110). Petitioner requests that the Commission determine the jurisdictional status of its Snake Creek, Granite, and Fountain Green Projects. The three projects are connected to Petitioner's distribution system for transmission of power to its customers.

The Snake Project is located on Snake Creek near the Town of Midway in Wasatch County, Utah. The project, which was initially constructed in 1910, consists of two small dams, canals and penstocks, and powerhouse containing two generators with a total installed capacity of 1,180 kW.

The Granite Project is located on Big Cottonwood Creek near the Town of Murray in Salt Lake County, Utah. The project was initially constructed in 1896, and consists of a dam, water conduits, and a powerhouse with two generators with a total installed capacity of approximately 2,000 kW.

The Fountain Green Project utilizes water from the Big Springs near the Town of Fountain Green in Sanpete County, Utah. The project was initially constructed in 1923, and consists of a dam, a small reservoir to contain the overflow of the springs, penstocks, and a powerhouse with a total installed capacity of 320 kW.

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.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 25, 1978, file with the Federal Energy Regulatory Commission, 825 N. 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 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2620 Filed 1-30-78; 8:45 am]

[6740—02]

Federal Energy Regulatory Commission

[Docket Nos. G-4953, et al.]

SUN OIL CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

JANUARY, 17, 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 8, 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 subject 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 in 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.

LOIS D. CASHELL,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C-4953 D 7-11-77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	United Gas Pipe Line Co., Red Fish Bay and Mustang Island Fields, Nueces County, Tex.	State Tract No. 445, well No. 1, plugged and abandoned; and lease released.	
CI76-691 C 12-27-77	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Carlsbad South et al., fields, Eddy and Lea Counties, N. Mex.	(1)	14.65
CI77-370 C 12-7-77	Union Oil Co. of California, Union Oil Center—Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	El Paso Natural Gas Co., Cities Service Cawley "A" No. 1 well, Morrow Formation, sec. 28, T21S, R27E, Eddy County, N. Mex.	(1)	14.65
CI77-370 C 1-3-78	Union Oil Co. of Calif	El Paso Natural Gas Co., Government "AD" No. 2 well, sec. 27, T21S, R27E and Elizando Federal "A" No. 5 well, sec. 34, T21S, R27E, Wolfcamp Formation, Eddy County, N. Mex.	(1)	14.65
CI78-261, G-4071 B 12-12-77	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water St., Wichita, Kan. 67201.	Texas Eastern Transmission Corp., South Cottonwood Creek Field, DeWitt County, Tex.	Nonproduction, no sales since May 1974 and gas contract expired.	
CI78-262 B 12-23-77	CICO Oil & Gas Co., 1822 Bank of the Southwest Building, Houston, Tex. 77002.	Tennessee Gas Pipeline Co., Mohat Field, Colorado County, Tex.	Depleted, plugged and abandoned and lease expired.	
CI78-263, CI65-31 B 12-27-77	Rex Monahan, Box 1321, Sterling, Colo. 80751.	Kansas-Nebraska Natural Gas Co., Inc., Pinto, Washington County, Colo.	Depleted	
CI78-264, CI63-637 B 12-27-77	Rex Monahan	Kansas-Nebraska Natural Gas Co., Inc., Surveyor's Creek, Washington County, Colo.	do	
CI78-265, CI69-769 B 12-27-77	do	Kansas-Nebraska Natural Gas Co., Inc., Surveyor's Creek, Logan County, Colo.	do	

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-266, CI62-423 B 12-27-77	Rex Monahan	Kansas-Nebraska Natural Gas Co., Inc., Columbine Field, Logan County, Colo.	Depleted	
CI78-267 B 12-27-77	do	Kansas-Nebraska Natural Gas Co., Inc., Logan County, Colo.	do	
CI78-268 B 12-27-77	W. Russell Birdwell (operator) et al., P.O. Box 1837, McAllen, Tex. 78501.	Transcontinental Gas Pipe Line Corp., South Driscoll Field, Duval County, Tex.	Depleted	
CI78-269, G-13129 B 12-27-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Cities Service Gas Co., Southeast Gibbon Field, Grant and Alfalfa Counties, Okla.	Nonproduction.	
CI78-270, G-12071 B 12-27-77	Gulf Oil Corp.	Texas Eastern Transmission Corp., Buna West Field, Jasper County, Tex.	Plugged and abandoned and leases expired.	
CI78-271 A 12-29-77	do	El Paso Natural Gas Co., Morrow Formation in the Lechuquilla Canyon Unit No. 6 well located in Crooked Creek Field, Eddy County, N. Mex.	(2)	14.73
CI78-272 A 12-29-77	Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	Northern Natural Gas Co., certain acreage in the Ozona Field, Crockett County, Tex.	(2)	14.65
CI78-273 A 12-29-77	Enserch Exploration, Inc., 1817 Wood St., Dallas, Tex. 75201.	Texas Eastern Transmission Corp., certain acreage located in Jefferson County, Miss.	(2)	15.025
CI78-274 B 12-30-77	Dye Gas Co.—Floyd Fox, agent, Route 742, Box 37, Big Springs, W. Va. 26137.	Consolidated Oil & Gas Corp., Sheridian District, Calhoun County, W. Va.	Nonproduction, plugged and abandoned.	
CI-78-275, G-16834 B 1-3-78	J. C. Barnes Oil Co., P.O. Box 1141, Midland, Tex., 79012.	Coastal States Gas Producing Appling (Middle Mopnicky) Fault Seg. "A", Calhoun County, Tex.	Depleted, plugged and abandoned.	
CI78-276 D 12-27-77	Petroleum Reserve Corp., P.O. Box 906, Stillwater, Okla. 74074.	Northern Natural Gas Co., sec. 22, Block R, Brooks & Burleson Survey, Ochiltree County, Tex.	(3)	
CI78-277, CI70-232 B 12-27-77	W. Russell Birdwell (operator) et al. (Succ. to the Superior Oil Co.), P.O. Box 1837, McAllen, Tex. 78501.	Tennessee Gas Pipeline Co., A division of Tenneco, Inc., East La Sara Field, Willacy County, Tex.	Depleted, plugged and abandoned.	
CI78-279, CI71-648 B 12-29-77	Michel T. Halbouty (operator) et al., 11th floor, Bank of the Southwest Bldg., Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, Sugar Valley Area, Matagorda County, Tex.	Depleted	
CI78-280 A 12-30-77	Highland Resources, Inc., et al. (Partial Succ. in Interest to San Salvador Development Co., Inc.), 800 San Jacinto Bldg., Houston, Tex. 77002.	Tennessee Gas Pipeline Co., certain acreage in the San Salvador Field, Hidalgo County, Tex.	(4)	14.65
CI78-281 A 12-30-77	Highland Resources, Inc., et al.	Texas Eastern Transmission Corp., certain acreage in the Union Church Area, limited to a depth down to the base of the Hosston Formation, Jefferson County, Miss.	(2)	15.025
CI78-282 A 12-30-77	Highland Resources, Inc., et al.	Texas Eastern Transmission Corp., certain acreage in the Union Church Area, limited to a depth down to the base of the Rodessa Formation, Jefferson County, Miss.	(2)	15.025
CI78-283 A 1-3-78	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Lake Raccourci Field, LaFourche Parish, La.	(2)	15.025
CI78-284 A 1-3-78	Exxon Corp	El Paso Natural Gas Co., Three Bar Field, Andrews County, Tex.	(2)	14.65
CI78-285 A 1-3-78	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Odessa-Gulf Little Federal No. 1-25 Basin Dakota Field, San Juan County, N. Mex.	(2)	14.73
CI78-286, G-7345 B 1-3-78	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Lone Star Gas Co., Katie-Gibson Field, Garvin County, Okla.	No gas available for delivery since December 1974. Plugged and abandoned.	
CI78-287, G-7346 B 1-3-78	Sun Oil Co	Lone Star Gas Co., West Katie Field, Garvin County, Okla.	No gas available for delivery since December 1974. Plugged and abandoned and contract dated Jan. 1, 1954 expired by its own terms on Jan. 1, 1974.	

[1] Applicant is filing under Gas Purchase Agreement dated May 24, 1976, as amended by amendment dated September 27, 1977.

[2] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

[3] Royalty owner has the right to take his gas in kind under the Gas Contract and Oil & Gas Lease and wants to exercise his option. It is intended that the royalty owner have access to his royalty in kind to the extent of his requirements.

[4] Applicant proposes that the sale of gas from the Brigido Marmolejo No. 1 well at the special relief rate found by the Commission to be just and reasonable on September 26, 1977, in San Salvador Development Co., Inc., et al., Docket No. CI76-14.

Filing code:
- A—Initial service.
- B—Abandonment.
- C—Amendment to add acreage.
- D—Amendment to delete acreage.
- E Succession.
- F—Partial succession.

[FR Doc. 78-2410 Filed 1-27-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 849-3]

PUBLICATION OF TOXIC POLLUTANT LIST

Pursuant to section 307(a)(1) of the Federal Water Pollution Control Act as amended by section 53(a) of the Clean Water Act of 1977 (Pub. L. 95-217), the Administrator is required to

publish the list of toxic pollutants consisting of those listed in Table 1 of Committee Print No. 95-30 of the House of Representatives Committee on Public Works and Transportation no later than 30 days after the enactment of the Act. Nine of the 65 listed pollutants (aldrin/dieldrin, benzidine, cyanide, cadmium, DDT, endrin, mercury, PCBs, and toxaphene) were previously listed as toxic pollutants by the Agency (38 FR 24324, September 7, 1973) and toxic pollutant effluent standards have been promulgated for six of these (42 FR 2588, January 12, 1977, and 42 FR 6532, February 2, 1977).

The list of 65 toxic pollutants was developed originally by a multi-disciplinary task force of scientists. Following submission to the Environmental Protection Agency of the conclusions of that task force, the Agency has received no data to indicate that any of these pollutants should be removed from the list. This list has been judically recognized and accepted by the Federal District Court of the District of Columbia in *NRDC* v. *Train*, 8, E.R.C. 2120 (1976) and it has been explicitly required by Congress.

The listing of a pollutant pursuant to section 307(a)(1) imposes no direct economic burden. The list does, however, form a basis for the development of effluent limitations for categories or classes of point sources pursuant to section 301(b)(2)(A) and 304(b)(2) of the Act, or section 307(a)(2).

This list has been subjected to administrative, judicial, and legislative review. From time to time the Administrator may revise the list and is authorized to add or remove pollutants taking into acount the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms.

The Administrator anticipates that, in the near future, he will propose adding pollutants to this list. To assist the Administrator in the list revision process, public comment is invited and should be directed to Kenneth M. Mackenthum, Director, Criteria and Standards Division (WH-585), 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0100. Petitions for modification of this list should include sufficient information to support the proposed modification.

The list of toxic pollutants is:

1. Acenaphthene.
2. Acrolein.
3. Acrylonitrile.
4. Aldrin/Dieldrin. [1]
5. Antimony and compounds.[2]
6. Arsenic and compounds.
7. Asbestos.
8. Benzene.
9. Benzidine.[1]
10. Beryllium and compounds.
11. Cadmium and compounds.
12. Carbon tetrachloride.
13. Chlordane (technical mixture and metabolities).
14. Chlorinated benzenes (other than dichlorobenzenes).
15. Chlorinated ethanes (including 1,2-dichloroethane, 1,1,1-trichloroethane, and hexachloroethane).
16. Chloroalkyl ethers (chloromethyl, chloroethyl, and mixed ethers).
17. Chlorinated naphthalene.
18. Chlorinated phenols (other than those listed elsewhere; includes trichlorophenols and chlorinated cresols).
19. Chloroform.
20. 2-chlorophenol.
21. Chromium and compounds.
22. Copper and compounds.
23. Cyanides.
24. DDT and metabolites.[1]
25. Dichlorobenzenes (1,2-, 1,3-, and 1,4-dichlorobenzenes).
26. Dichlorobenzidine.
27. Dichloroethylenes (1,1-, and 1,2-dichloroethylene).
28. 2,4-dichlorophenol.
29. Dichloropropane and dichloropropene.
30. 2,4-dimethylphenol.
31. Dinitrotoluene.
32. Diphenylhydrazine.
33. Endosulfan and metabolites.
34. Endrin and metabolites.[1]
35. Ethylbenzene.
36. Fluoranthene.
37. Haloethers (other than those listed elsewhere; includes chlorophenylphenyl ethers, bromophenylphenyl ether, bis(dichloroisopropyl) ether, bis-(chloroethoxy) methane and polychlorinated diphenyl ethers).
38. Halomethanes (other than those listed elsewhere; includes methylene chloride methylchloride, methylbromide, bromoform, dichlorobromomethane, trichlorofluoromethane, dichlorodifluromethane).
39. Heptachlor and metabolites.
40. Hexachlorobutadiene.
41. Hexachlorocyclohexane (all isomers).
42. Hexachlorocyclopentadiene.
43. Isophorone.
44. Lead and compounds.
45. Mercury and compounds.
46. Naphthalene.
47. Nickel and compounds.
48. Nitrobenzene.
49. Nitrophenols (including 2,4-dinitrophenol, dinitrocresol).
50. Nitrosamines.
51. Pentachlorophenol
52. Phenol.
53. Phthalate esters.
54. Polychlorinated biphenyls (PCBs).[1]
55. Polynuclear aromatic hydrocarbons (including benzanthracenes, benzopyrenes, benzofluoranthene, chrysenes, dibenzanthracenes, and indenopyrenes).
56. Selenium and compounds.
57. Silver and compounds.
58. 2,3,7,8 - tetrachlorodibenzo - p - dioxin (TCDD).
59. Tetrachloroethylene.
60. Thallium and compounds.
61. Toluene.
62. Toxaphene.[1]
63. Trichloroethylene.
64. Vinyl chloride.
65. Zinc and compounds.

[1] Effluent standard promulgated (40 CFR Part 129).

[2] The term "compounds" shall include organic and inorganic compounds.

Dated: January 25, 1978.

SWEP T. DAVIS,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-2537 Filed 1-30-78; 8:45 am]

[6560-01]

[FRL 849-5]

DETERMINATION OF PRIMARY ENFORCEMENT RESPONSIBILITY; STATE OF WISCONSIN

Public Notice

This public notice is issued under § 1413 of the Safe Drinking Water Act of 1977, Pub. L. 95-190 (amending 42 U.S.C. §§ 300 et. seq.), and 40 CFR § 142.10, National Interim Primary Drinking Water Regulations, published at 41 FR 2918 (January 20, 1976).

An application, dated December 9, 1977, has been received from the Secretary of the Wisconsin Department of Natural Resources, requesting that the Wisconsin Department of Natural Resources be granted primary enforcement responsibility for public water systems in the State of Wisconsin, in accordance with the provisions of this Act.

In response, I have determined, as Regional Administrator of the U.S. Environmental Protection Agency, Region V, that the Wisconsin Department of Natural Resources has met all conditions of the Safe Drinking Water Act, and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Wisconsin.

The State—(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations; and

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Public Water Supply Section, Wisconsin Department of Natural Resources, 4610 University, Madison, Wis. 53707.

Water Supply Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

All interested parties are invited to submit written comments on this determination. Written comments must be submitted on or before February 16, 1978.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will be held in Room 1305, Wisconsin Department of Natural Resources, Pyrare Square Building, 4610 University, Madison, Wis. 53707. The hearing will begin at 9:30 a.m. on February 17, 1978. Oral statements will be heard and considered; but for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the Hearing Officer and other interested persons.

The Hearing Officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard, or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Any interested person may comment upon the State submission by writing to the U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The State's submission, related documents, and all comments received are on file and may be inspected and copied at the U.S. Environmental Protection Agency, Region V, Chicago.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U.S. Environmental Protection Agency, Region V, or the Public Water Supply Section, Wisconsin Department of Natural Resources or by calling Joseph F. Harrison at 312-353-2151 or Robert Baumeister, 608-266-2299.

After receiving the record of the hearing, I will issue an order affirming or rescinding this determination. If the determination is affirmed, it shall become effective as of the date of this order.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: January 20, 1978.

VALDAS V. ADAMKUS,
Deputy Regional Administrator, U.S. Environmental Protection Agency, Region V.

[FR Doc. 78-2644 Filed 1-30-78; 8:45 am]

[6560-01]

[FRL 849-4]

REGULATION OF FUELS AND FUEL ADDITIVES

Lead Phase-down Standard for January 1, 1978

Notice is hereby given by the Environmental Protection Agency (EPA) to any refinery with a crude oil or bona fide feed stock capacity of greater than 30,000 barrels per day but not greater than 50,000 barrels per day, which is owned or controlled by a refiner with a total combined crude oil or bona fide feed stock capacity of 137,500 barrels per day or less, that enforcement of the lead standard set out in 40 CFR § 80.20(a)(1) (as amended by § 223 of the 1977 Clean Air Act Amendments, Pub. L. 95-95) will be suspended as to such refinery until 90 days following the promulgation of Small Refinery Amendments to the Lead Phase-down Regulations. Enforcement against any such refinery for failure to comply with 40 CFR § 80.20(a)(4)(v) is also suspended until 90 days following the promulgation of the Small Refinery Amendments.

Notice of a similar suspension of enforcement with respect to any refinery with a crude oil or bona fide feed stock capacity of 30,000 barrels per day or less was published on April 1, 1977, at 42 FR 17515. The present suspension is intended to provide relief for small refineries not covered by the earlier notice but expected to be included in the Small Refineries Amendments to be proposed soon pursuant to § 223 of the 1977 Amendments of the Clean Air Act.

Dated: January 25, 1978.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-2643 Filed 1-30-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21499]

AMERICAN TELEPHONE AND TELEGRAPH CO. AND ASSOCIATED BELL SYSTEM COMPANIES, OFFER OF FACILITIES FOR USE BY OTHER COMMON CARRIERS

Order Regarding Extension of Comment Period

Adopted: January 24, 1978.

Released: January.

1. Comments in this proceeding were to have been filed on or before January 25, 1978. Western Union International, Inc., (WUI) has requested a two (2) day extension to January 27, 1978.[1] WUI has stated that they have informed other parties to the case, and that the other parties do not object to the two (2) day extension. We find good cause has been shown for the relief requested by WUI.

2. *Accordingly, it is ordered,* Pursuant to delegated authority to the Chief, Common Carrier Bureau, contained in § 0.303(c) of the Commission rules and regulations, 47 CFR 0.303(c), that the due dates for comments and reply comments in this proceeding are hereby extended to January 27, 1978, respectively.

For the Federal Communications Commission.

PHILIP V. PERMUT,
Deputy Chief, Common Carrier Bureau.

[FR Doc. 78-2629 Filed 1-30-78; 8:45 am]

[1] See 42 FR 62429, December 12, 1977.

[6712-01]

Radio Technical Commission for Marine Services

[SC-65]

NO. 65 SHIP RADAR

Meeting

To: Members of Special Committee No. 65 "Ship Radar"
Subject: Notice of 63rd Meeting.
Time/Date: Wednesday, February 15, 1978—9:30 a.m.; Thursday, February 16, 1978—9:30 a.m.
Location: Conference Room 8210, 2025 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur: 1 December 1977—Paper 240-77/SC, 65-256; 15 December 1977—Paper 244-77/SC, 65-258; 24 January 1978—Paper 10-78/SC, 65-263.
3. Approval of the following papers:
a. Warranty as a Means of Assessing the Reliability of Shipboard Electronic Equipment.
b. Evaluation of Anti-Collision Systems.
4. Other business.
5. Establishment of final meeting date.

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.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-2608 Filed 1-30-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-139.]

CHANDRIS INC.

Order of Revocation

Whereas, Armadores Romanza S.A. Trading as Chandris Cruises, 666 Fifth Ave., New York, N.Y. 10019, Liberty Travel and Gogo Tours have ceased to operate the passenger vessel *Romanza* to and from United States ports; and

Whereas, Certificates (Performance) No. P-139 covering the *Romanza* have been returned for revocation.

It is ordered, that Certificate (Performance) No. P-139 issued to Armadores Romanza S.A. Trading as Chandris Cruises and reissued to Armadores Romanza S.A. Trading as Chandris Cruises, Liberty Travel and Gogo Tours be and are hereby revoked effective January 23, 1978.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served on certificants.

By the Commission January 23, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-2638 Filed 1-30-78; 8:45 am]

[6730-01]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by February 21, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: 5680-27.

FILING PARTY: H. R. Rollins, Secretary, Pacific/Straits Conference, 635 Sacramento Street, San Francisco, Calif. 94111.

SUMMARY: Agreement No. 5680-27 has been entered into by the member lines of the Pacific/Straits Conference for the purpose of amending the Appendix to Agreement No. 5680 by the addition of a new Article 13 which provides for the collection of demurrage at destination ports.

AGREEMENT NO.: 10140-8.

FILING PARTY: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

SUMMARY: Agreement No. 10140-8 modifies the U.S. Gulf/United Kingdom Rate Agreement to extend the term of the agreement for an indefinite period or until a date fixed by the Commission.

AGREEMENT NO.: T-3562.

FILING PARTY: George H. Chamlee, Attorney, Georgia Ports Authority, P.O. Box 9523, Savannah, Ga. 31402.

SUMMARY: Agreement No. T-3562, between Georgia Ports Authority (Authority) and Continental Grain Co. (Continental), provides for the three-year renewable lease to Continental of land, buildings, and improvements and the machinery and equipment situated at the Authority's bulk facility located at Garden City Terminal, Chatham County, Ga. Continental shall use the leased premises for warehousing, receiving, storing, handling, sacking, and shipping of grain and other bulk agricultural commodities. As compensation, Continental will pay Authority a minimum annual rental of $165,000 plus any further operating costs required, such as use of Authority's equipment and labor as specified in the agreement. Continental will be permitted to establish its own tariff for the handling of third-party commodities, provided charges are comparable with those at other South Atlantic, Mid-Atlantic, and East Gulf ports.

AGREEMENT NO.: T-3563.

FILING PARTY: Joseph D. Patello, Port Attorney, Port of San Diego and Lindbergh Field Air Terminal, P.O. Box 488, San Diego, Calif. 92112.

SUMMARY: Agreement No. T-3563, between San Diego Unified Port District (Port) and California Stevedore and Ballast Co. (CSB), provides for a terminal operator agreement between the parties. The purpose of this agreement is to set forth the scope and obligation of CSB as a terminal operator upon facilities owned by the Port. CSB will publish its own tariff pursuant to the performance of terminal services under this agreement. In no instance shall such rates, charges, classifications, rules, regulations and practices be subject to approval by Port. CSB will be required only to pay Port for wharf storage and wharf demurrage charges in accordance with Port's tariff as may be applicable to cargoes handled by CSB upon Port facilities.

By Order of the Federal Maritime Commission.

Dated: January 25, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-2639 Filed 1-30-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 on Title 46 CFR and Section 311 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/Operator and Vessels*
01007	B. Holter-Sorensen & Co.: *Holthav.*
01087	Dampskibsselskabet Torm A/S: *Torm Alice.*
01088	Schulte & Bruns: *Elisabeth Schulte, Ilse Schulte.*
01158	Rederiet Bjorn Ragne: *Bjorn Ragne.*
01218	Interessentskapet Ocean Master: *Ocean Master.*
01236	I/S Nagoya: *Blakh.*
01330	Shell Tankers (United Kingdom) Limited: *Aluco.*
01442	Charles Connell & Co. Ltd.: *Vancouver Island.*
01459	Palm Line Ltd.: *Elmina Palm.*
01484	Hero Shipping Co. Ltd.: *Atlantic Hero.*
01546	Belgian Fruit Line, S.A.: *Frubel Africa.*
01574	Fearnley & Eger: *Fernside, Fernpark.*
01758	Chotin Transportation Inc.: *Chotin 991, Chotin 1202, Chotin 1643.*
01813	Partenreederei M/S Iberia: *Iberia.*
01938	Maersk McKinney Moller: *Estelle Maersk.*
02151	Anchor Line Ltd.: *Cameronia.*
02171	Margaret Shipping Co., Ltd.: *Pantazis Caias.*
02198	Peninsular & Oriental Steam Navigation Co.: *Strathlomond, Strathnevis.*
02206	Compania Comercial & Financiera Sud.: *Montreux.*
02255	Ellerman Lines Ltd.: *City of Montreal.*
02330	Taiwan Marine Corp.: *Regent Lilac.*
02579	Gadot Yam Ltd.: *Chemical Marketer.*
02831	Ednassa Shipping Co. Ltd.: *Larissa.*
02935	Cable & Wireless Ltd.: *Sentinel.*
03068	Pacific Shipping Co., Ltd.: *New Mui Kim.*
03086	Pacific Union Marine Corp.: *Oceanic Amity.*
03216	Salenrederierna AB: *Singo.*
03305	Grand Bassa Tankers Inc.: *Burl S. Watson.*

Certificate No.	Owner/Operator and Vessels
03476	Nissin Kisen K.K.: *Daiei Maru.*
03505	Showa Yusen Kabushiki Kaisha: *Chitose Maru.*
03518	Tokyo Senpaku K.K.: *Nagoya Maru.*
03564	A/S Mosvolda Rederi: *Mosborg.*
03632	A/S Turid: *Enid.*
03694	Port Allen Marine Service, Inc.: *PA 876.*
03878	Ingram Barage Co.: *T/B Mississippi, T/B Memphis, T/B Christy 211.*
03908	Fairline Shipping Corp., Monrovia: *Fairsky.*
03999	Hamilton Transport Co., Inc.: *Star Lily.*
04036	Transporti Marittimi Mercantili Societa Di Navigazione S.P.A.: *Corallina.*
04223	Asphalt Barge Corp.: *L.T.C. No. 101.*
04262	Eddie Steamship Co., Ltd.: *Kally.*
04293	General Marine Transport Corp.: *Susan Frank, Rebecca K.*
04394	Philippine President Lines, Inc.: *Ocean Royal.*
04404	Lars Rej Johansen: *Jobebe, Jo Boy.*
04413	Leif Hoegh & Co. A/S: *Hoegh Trotter, Hoegh Traveller.*
04568	United Venture Navigation Co., Ltd.: *Grand Pride.*
04593	Bow Shipping Corp.: *Golar Nikko.*
04716	Jason Shipping Inc.: *Nagos.*
04878	Leland Bowman: *Ever-Ready 100.*
04943	Academy Tankers, Inc.: *Thomas Q.*
05098	Esso Tankers Inc.: *Esso Rotterdam.*
05407	Evergreen Marine Corp. S.A.: *Ever Glory.*
05537	Empresa Navegacion Mambisa: *Star.*
05581	Latvian Shipping Co.: *Jurmala.*
05878	Societe De Baillon Inc.: *Maridan C.*
06424	The Pelee Shipping Co. Ltd.: *Pelee Islander.*
06452	Compania Maritima De Transportes Inter-Nacionales S.A.: *Lago Negro.*
06510	Compagnie Nationale Algerienne De Navigation: *El Djazair, Tafna 11, Tipaza, Sunrise, Tafna 1, Zeralda, Tassili, Bou Ismail 3, Hoggar.*
06821	Anglo-Eastern Bulkships Ltd.: *Chemical Venture, Chemical Explorer.*
07131	R. W. Denny Corp. & Buckley & Co. Inc., a joint venture: *Denny Buckley 200 Scow.*
07292	Hinode Kisen Co., Ltd.: *Tomiwaka Maru No. 8.*
07319	Shipping Co. Ossendrecht NV: *Ossendrecht.*
07366	Compagnie Maritime des Chargeurs Reunis: *Dupleix, Ango, Tanagra, Tatiana.*
07398	Tasman Navigation Corp. Ltd.: *Prospect.*
07560	Argon Maritime Ltd.: *Thomas G. Chimples.*
07595	Naves Sudamericana Naviera S.A. Panama: *Artemis Colocotronis.*
07623	Hawaiian Tug & Barge Co. Ltd.: *HBT-11.*
07748	N.V. Statendam: *Statendam.*
07858	Compania Susie S.A.: *Katina.*
08022	Nissei Shipping Co., Ltd.: *Car Liner No. 1, Car Liner No. 2, Gyosei Maru.*
08131	Empresa Navegacion Caribe: *26 de Julio.*
08175	Gunther Schulz Schulauer Schiffahrtskontor, Hamburg: *Uthoern.*
08889	Companhia Portuguesa de Transportes Maritimos—C.T.M.: *Joao da Nova, Ponta S. Lourenco, Ilha de Porto Santo.*
09004	Berman Enterprises, Inc.: *Pat Kip, Alan Martin, Amy B, Jodie K, Anne Louise, Laurie B, Sam Berman, Sarah Frank, Peter Frank.*
09089	Fucsia Shipping Co. Ltd.: *Forsizia.*
09383	Blue Water Marine Industries, Inc.: *Big Black River.*
09442	Logan & Craig Charter Service, Inc.: *Margie Logan.*
09835	N.V. Prinsendam: *Prinsendam.*
09971	Dong II Shipping Co., Ltd.: *Haru'ufi Maru.*
10049	Sunrise Navigation Co., S.A.: *Sun Vega.*
10499	Pacific Leader Navigation S.A.: *Sunrise.*
10538	Partenreederei MS Martha Fisher: *Sunbaden.*
10717	General Western, a joint venture: *Papoose.*
10956	Ekavia Compania Naviera S.A.: *Ekavi.*
10970	Symphonic Navigation Co. S.A.: *Attikos.*
10999	Partenreederei MS Tom Jacob Korrespondentreeder Ernst Jacob: *Tom Jacob.*
11042	Nogamar S.A.: *Honesty.*
11326	Toyo Islands Shipping Co., Ltd.: *Topaz Islands.*
11327	Paula Islands Shipping Co., Ltd.: *Palm Islands.*
11328	O'Reilly Islands Shipping Co., Ltd.: *Onyx Islands.*
11329	Oficios Islands Shipping Co., Ltd.: *Opal Islands.*
11330	Indalecio Islands Shipping Co., Ltd.: *Ivory Islands.*
11332	Aguiar Islands Shipping Co., Ltd.: *Agate Islands.*
11333	Amargura Islands Shipping Co., Ltd.: *Amber Islands.*
11363	Spanliverpool Shipping Co.: *King Egbert.*
11387	Melea I Marine Co. S.A.: *Merita.*
11609	Monarch Cruise Lines, Inc.: *Monarch Star, Monarch Sun.*
11714	Global Transport Organisation: *Federal 400-3.*
12014	K/S A/S Scorpio & Co.: *Morgedal.*
12166	S.P.A. Pesca Oceanica Sarda: *Sagitta.*
12839	Moonrise Shipping Co. S.A.: *Homeric.*
12950	Denali Fisheries Inc.: *Denali.*
12957	Asia Shipping Co., Ltd.: *Crown.*
13391	Jardine Offshore Contractors Inc.: *CB-4.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-2640 Filed 1-30-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01116	Trade Ambassador Line, Inc.: *Pericles G.C.*
01323	Manchester Liners Ltd.: *Manchester Venture.*
01339	Compagnie Africaine d'Armenent: *Flora.*
01471	Helmsman Shipping Co., Ltd.: *Atlantic Helmsman.*
01483	Strymon Shipping Co., Ltd.: *Strymon.*
01575	Rederiaktieselskapet Mascot: *Bianca.*
01819	King Line Ltd.: *King Alfred.*
01913	Compagnie Fabre Societe Generale de Transports Maritimes: *Espadon.*
01920	Messrs. Svend Foyn Bruun: *Petunia.*
01935	Partnership between Steamship Co. Svendborg Ltd. and Steamship Co. of 1912 Ltd.: *Luna Maersk.*
01956	Navegadora Valiente S.A. of Panama: *Resolute Colocotronis.*
01958	Mares Maritima S.A. of Panama: *Patriotic Colocotronis.*
01967	Estrella Reinante Nav. S.A. of Panama: *Gallant Colocotronis.*
01968	Mundial Mar. S.A. of Panama: *General Colocotronis.*
01976	Conquista Armadora S.A. of Panama: *Yangos Colocotronis.*
02152	A. F. Klaveness & Co. A/S: *Siljestad.*
02194	Companie Generale Maritime: *Moheli.*
02214	Golden Lance Steamship, Inc.: *Golden Lance.*
02231	Chandris Shipping Co. Ltd.: *Evgenia Chandris.*
02263	Nouvelle Compagnie de Paquebots: *Renaissance.*
02270	Enso-Gutzeit Osakeyhtio: *Finnreel.*
02277	Empros Lines Shipping Co. Sp. S.A.: *Aliakmon.*
02362	Rethymnon Shipping Co. Ltd.: *Rethymnon.*
02452	Dover Navigation Co., Ltd.: *Ocean Queen.*
02475	Houston Barge Line, Inc.: *EIDC 52.*
02515	SPS Tankers Corp.: *Theonymphos.*
02716	Aktieselskabet det Dansk-Franske Dampskibsselskab: *Normandiet.*
02734	Italia Societa per Azioni di Navigazione: *Raffaello.*
02877	Nippon Yusen K.K.: Saga Maru.
02975	Venture Shipping (Managers) Ltd.: *Grace Venture.*
03228	Palmyra Compania Naviera S.A. of Panama: *North Earl.*
03256	Upper Miss. Towing Corp.: *UM 910, UM 909, UM 908, UM 907, UM 906, UM 905, UM 904, UM 903, UM 194, UM 193, UM 96, UM 91, AC 1.*
03311	Acacia Navigation Ltd.: *Christine G. Chimples.*
03536	Herlofson Shipping Co. A/S: *Tank Rex.*
03725	Circle Line Sightseeing Yachts Inc.: *Circle Line IV.*
04080	Port Arthur Towing Co.: *MM-101, MM-102.*
04128	Skips A/S Westray: *Brunvard.*
04308	Toxon Navigation Co. S.A.: *Toxon.*
04386	Maritime Co. of the Philippines: *Leyte Gulf.*
04437	Le Beouf Bros. Towing Co., Inc.: *Joyce O.*
04561	Magnolia Line, Inc.: *Crystal Azalea.*
04625	American Commercial Lines, Inc.: *Chem 38, Chem 47.*
05098	Esso Tankers Inc.: *Esso Bayway.*
05231	Khamsin Shipping Inc.: *Khamsin.*
05537	Empresa Navegacion Mambisa: *Lazaro Peana.*
06118	Marcaminos Atlanticos Navegacion S.A.: *Naxos Island.*
06166	Hobart/Troller Towing Inc.: *Dorothy Hobart.*
06346	Celomar Compania Naviera S.A. Panama: *Athena.*
06390	Enterprise Compania Naviera S.A.: *Leste.*
06510	Compagnie Nationale Algerienne de Navigation: *Tariq.*
06497	Naves Valientes S.A. of Panama: *Challenger Colocotronis.*
06549	Compagnie Marocaine de Navigation: *Zalagh.*
06578	Van Nievelt, Goudriaan & Co. BV.: *Asuncion, Villarrica, Alcol, Alkes.*
06811	Erago Steamship Inc.: *My Era.*
06821	Anglo-Eastern Bulkships Ltd.: *Nordic Conqueror.*
06879	Armonikos Shipping Co. Ltd. of Cyprus: *Armonikos.*
06932	Liberian Narcissus Transports Inc.: *Asia Hunter.*
07105	Astrosureno Armadores, S.A.: *Pacifica.*
07245	Argonaut Shipping Inc.: *Argo Leader.*
07413	Achilles Navigation Corp.: *Ioannis Chandris.*
07456	Associated Transportation Ltd.: *Uniona.*
07550	Erato Shipping Inc.: *Golden Laurel, Regent Marigold, Regent Comos, Regent Fleur, Regent Cedar, Regent Violet, Begonia, Regent Botan, Halo, Southern Cross I, Bellis.*
07743	Yangming Marine Transport Corp.: *Ho Ming.*
07822	Stellar Marine Ltd.: *Selinis.*
07835	Stimon Shipping Co. Ltd.: *Stimon.*
07839	Floisvos Shipping Co. Ltd.: *Rio Santa Elena.*
07910	Sealeader Maritime Co. Ltd.: *Ellinora.*
07970	N.V. Mailschip Antillen: *Rotterdam.*
08147	Navegacion Granada S.A.: *Mount Julie.*
08231	Ecological Shipping Corp.: *Notre Dame Victory.*
08233	Imbros Shipping Co. Ltd.: *Imbros.*
08234	Burmah Oil Tankers Ltd.: *Burmah Coral.*
08247	Pyramid Sugar Transport, Inc.: *Sugar Islander.*
08253	Sporades Maritime, Ltd.: *Corona Beach.*
08264	Brasnamar Cia. Brasileira De Navegacao Maritima: *Santista.*
08355	Aquarian Navigation Ltd.: *Athenoula.*

Certificate No.	Owner/operator and vessels
08357	Nea Armonia Shipping Co. S.A. of Panama: *Armonia.*
08407	Elais Shipping and Investment Co. S.A.: *Spartan Angel, Spartan Bay.*
08428	Leo Maritime Co. Ltd.: *Andriana I.*
08527	Parnis Maritime Co., Ltd.: *San Salvador.*
08627	Terminales Maracaibo, C.A.: *Teague Bay.*
08701	Rector Navigation Corp.: *Lily.*
08905	St. Michael Maritime Co. Ltd.: *St. Providence.*
08973	Compania Maritima Elxan, Ltd.: *Spartan Leader.*
08992	Thira Maritime Co. Ltd.: *St. Michael.*
09205	Trusa Shipping Co., S.A.: *Santa Trinidad.*
09222	National Oil Corp. Tripoli-Libya: *Marsa el Hariga, Serrir.*
09290	Compania Spyros S.A.: *Spyros.*
09569	Ebony Co. Ltd. of Liberia: *Arma.*
09710	Continental Mariner Investment Co. Ltd. *Hing Chong.*
09925	Forest Maritime, Inc.: *Aretussa.*
10218	Cattleya Fleet Holdings Corp.: *Natbay.*
10525	Pansegura Armadora S.A.: *Vassiliki Colocotronis.*
10876	Polimaris Maritime Corp.: *Euromariner.*
10902	Ormi Shipping Co. Ltd.: *Uniluck.*
10931	Hansung Shipping Co., Ltd.: *Blue Virgo, Blue Orion.*
11435	Erato Shipping and Trading Corp. S.A.: *Deka Exi, Deka Epta, Deka Okto, Deka Ennea.*
11546	Christinguif Compania Naviera S.A.: *Kalligrammos.*
11576	Great Eastern Maritime, S.A.: *El Sipra.*
11611	Amphitrite Shipping and Trading Corp. S.A.: *Ikosi-Ena, Petrola's Seamaster 20, Petrola's Oceanmaster 24.*
11724	Pentland Management Services Ltd.: *Pentland Brae.*
11757	Daphnis Shipping and Trading Corp. S.A.: *Petrola 70.*
11758	Spiros L. Latsis: *Epta, Enn Ea.*
11821	Minerve Shipping and Trading Corp. S.A.: *Petrola 131.*
11942	Cyclop Shipping Co., S.A.: *Scapmariner.*
12035	Vaicos Shipping and Investment Co. S.A.: *Kriti.*
12190	New Jersey Shipping Enterprises Corp.: *Moorgate Queen.*
12356	Orinoco Shipping Co. Inc., Panama: *Dona Placida.*
12586	Amer-Yhtyma Oy: *Concordia Amer.*
12590	Algol Shipping Co. Ltd.: *Algol.*
12727	Sea Trading Ltd.: *Sankaty.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-2641 Filed 1-30-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

UNORDERED MERCHANDISE

Statement of Policy

On September 11, 1970, the Federal Trade Commission issued a notice of cancellation of public hearing and opportunity to submit data, views, or arguments regarding a proposed Trade Regulation Rule relating to the shipment of unordered merchandise [35 FR 14328 (1970)]. With this the Commission gave notice that in connection with the shipment of unordered merchandise it considers section 3009 of the Postal Reorganization Act, 39 U.S.C. 3009, as the proper interpretation of section 5 of the Federal Trade Commission Act. This Statement of Policy is intended to clarify the 1970 notice and to avoid misunderstanding in the legal and business communities concerning the Commission's enforcement policy.

While the Commission holds to the view that section 3009 states the proper standard under section 5 of the Federal Trade Commission Act as to the mailing of unordered merchandise, it has never intended to restrict the standard to unordered merchandise sent by U.S. mail. The Commission might, for example, prosecute as an unlawful trade practice, under section 5 of the Federal Trade Commission Act, a nonmail shipment of merchandise which does not meet the standards of 39 U.S.C. 3009, which are as follows:

Section 3009: Mailing of unordered merchandise. (a) Except for (1) free samples clearly and conspicuously marked as such, and (2) merchandise mailed by a charitable organization soliciting contributions, the mailing of unordered merchandise or of communications prohibited by subsection (c) of this section constitutes an unfair trade practice in violation of section 45(a)(1) of title 15.

(b) Any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, may be treated as a gift by the recipient, who shall have the right to retain, use, discard or dispose of it in any manner he sees fit without any obligation whatsoever to the sender. All such merchandise shall have attached to it a clear and conspicuous statement informing the recipient that he may treat the merchandise as a gift to him and has the right to retain, use, discard, or dispose of it in any manner he sees fit without any obligation whatsoever to the sender.

(c) No mailer of any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, shall mail to any recipient of such merchandise a bill for such merchandise or any dunning communications.

(d) For the purposes of this section, "unordered merchandise" means merchandise mailed without the prior expressed request or consent of the recipient.

By direction of the Commission dated January 11, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-2597 Filed 1-30-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Extension of Time to File Comments

On January 13, 1978, GAO published a notice (43 FR 1994) requesting comments by January 31, 1978, from all interested persons, organizations, public interest groups, and affected businesses on a Federal Trade Commission request for clearance of a new, voluntary, single-time questionnaire which will be sent to approximately 100 life insurance companies. Pursuant to 44 U.S.C. 3512 GAO is limited in the amount of time it has to review the request. However, GAO hereby extends the comment period to February 17, 1978.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-2585 Filed 1-30-78; 8:45 am]

[4110-84]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1978:

Name: PHS Hospitals Ad Hoc Advisory Committee.
Date and Time: February 17-18, 1978, 9 a.m.
Place: Room 617 G1, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Open for entire meeting.

Purpose: The Committee will conduct an in-depth examination of each PHS hospital in relation to its principal beneficiaries and the community in which it is located; its health needs and delivery system; and the cost of operation and achievements. It will assist in developing options and recommendations concerning the present and future role of the hospitals in the continuation and improvement of health care delivery.

Agenda: Discuss the past and present constraints of the hospitals; discuss and modify site visit protocol; and the review of the site visit schedule.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Jordon Popkin, Office of the Administrator, Health Services Administration, Parklawn Building, Room 14-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2245.

Agenda items are subject to change as priorities dictate.

Dated: January 26, 1978.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc. 78-2704 Filed 1-30-78; 8:45 am]

[4110-02]

Office of Education

ENVIRONMENTAL EDUCATION PROGRAM

Extension of Closing Date for Applications

Notice is given that the January 20, 1978, deadline for filing applications under the Environmental Education

Program as authorized by the Environmental Education Act, as amended March 24, 1975 (20 U.S.C. 1531-1536), published in the FEDERAL REGISTER on October 12, 1977, is extended to February 3, 1978.

(a) *Application forms and information.* Application forms and program information packages are available.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.522, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to have been received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 30, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Environmental Education Program from institutions of higher education, State and local educational agencies, regional research organizations, and other public and private nonprofit agencies, organizations, and institutions for environmental education project grants. In formulating proposals, potential applicants should be aware that approximately 100 projects will be funded in Fiscal Year 1978, including new awards and competing continuation projects. Grants averaging $50,000 for General Project activities and not exceeding $10,000 for Minigrant activities will be awarded for a 12-month period. Minigrants are available for community workshops, conferences, symposia, or seminars on a local environmental problem.

(e) *State and areawide clearinghouse review (OMB Circular A-95).* Applications under the Environmental Education Program are subject to the clearinghouse procedures required by OMB Circular A-95, the regulations for facilitating coordinated planning under the Intergovernmental Cooperative Act. State/areawide clearinghouse procedures are applicable. Applicants should check with the appropriate Federal Regional Office to obtain the name(s) and address(es) of the clearinghouse(s) if unknown. Indian tribe applicants need not notify "clearinghouses" unless a tribal, formalized procedure has been established through the Office of Management and Budget. All applicants, other than Indian tribes, must provide evidence of compliance with clearinghouse review requirements in the application to the Commissioner. Evidence of compliance may consist of:

(1) A State application identifier number obtained from the clearinghouse and comments from clearinghouses, if available.

(2) Certification by the applicant that either or both State and areawide clearinghouses have been provided with the opportunity to review the application, and no comments have been received.

Clearinghouse comments received by the applicant after the submission of the application to the U.S. Office of Education must be forwarded to the Office of Environmental Education, U.S. Office of Education (see address in paragraph (g) below). Clearinghouse comments received by the Office of Environmental Education no later than (?) will be considered in reviewing applications.

(f) *State education agency comment.* The regulations for the Environmental Education Program, in accordance with the statute, require that a local educational agency provide a copy of its application to the State educational agency of the State within which the applicant is located, concurrently with its submission of the application to the Office of Education. For verification of the submission to the State educational agency, the local educational agency applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the State educational agency. State educational agencies wishing to submit advice and comments on any local educational agency application originating within their State may do so by forwarding their advice and comments to the Office of Environmental Education, U.S. Office of Education (see address in paragraph (g) below). Advice and comments received from SEA's no later than March 6, 1978, will be considered in reviewing applications.

(g) *For further information and forms contact:* Walter J. Bogan, Jr., Office of Environmental Education, Bureau of Elementary and Secondary Education, Room 2025, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-9231.

(h) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Environmental Education Regulations published in the FEDERAL REGISTER on May 21, 1974, as amended March 24, 1975 (45 CFR Part 183).

(20 U.S.C. 1531-1536.)

(Catalog of Federal Domestic Assistance Number 13.522, Environmental Education Program.)

Dated: January 26, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-2726 Filed 1-30-78; 8:45 am]

[4110-08]

Public Health Service

NATIONAL INSTITUTES OF HEALTH

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) formerly Part 8, Chapter 8 (41 FR 52724, December 1, 1976) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27,1975, as amended most recently at 42 FR 38019, July 26, 1977), is amended to reflect: (1) The revision of the functional statement for the Clinical Applications and Prevention Program (HNH24) within the Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute; and (2) the establishment of the Epidemiology and Biometry Program (HNH25) within the Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute. This action is intended to provide for stronger coordination and management of the epidemiologic and biometric research programs.

Section HN-B Organization and Functions, is amended as follows: (1) Under the heading National Heart, Lung, and Blood Institute (HNH), delete the statement for the Clinical Applications and Prevention Program (HNH24) and insert the following statement:

Clinical Applications and Prevention Program (HNH24). (1) Plans and

directs programs of basic and applied research and grant and contract support for research in clinical trials, preventive cardiology and behavioral medicine to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research in these program areas; (3) recommends priorities and funding levels for program to be recommended to the advisory council for support by grants; (4) determines priorities and allocates funds for research to be supported by contract; (5) collaborates with intramural program in the Institute and NIH-wide and maintains an awareness of national research efforts in program areas; (6) prepares reports and analyses to assist Institute staff and advisory groups carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

(2) Insert the following statement after the revised statement for the Clinical Applications and Prevention Program (HNH24):

Epidemiology and Biometry Program (HNH25): Plans, directs, and conducts a program of basic epidemiologic research and grant and contract support for epidemiologic research; (2) directs and conducts a program of basic research in the areas of theoretical statistics and biometric methods and provides consultative services for the Institute in these areas; (3) assesses the need for epidemiologic research and identifies research opportunities in the program areas; (4) determines priorities and funding levels for programs recommended to advisory council for grant support; (5) recommends priorities and allocates funds for research in the program area to be supported by contract; (6) collaborates with the categorical division programs in heart, blood vessel, lung, and blood diseases; (7) prepares reports and analyses to assist Institute staff and advisory groups in their planning, evaluating, and assessment responsibilities; and (8) consults with health and other professional associations in identifying research needs and developing programs to meet them

Dated: January 16, 1978.

CHARLES MILLER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-2514 Filed 1-30-78; 8:45 am]

[4110-85]

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of November 1977 the following entity has been determined to be a qualified health maintenance organization under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Name, address, service area, and date of qualification

(Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a))

1. 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 operational qualification: November 1, 1977. (Achieved preoperational qualification on 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 Organization 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 23, 1978.

JOYCE C. LASHOF,
Deputy Assistant Secretary for Health, Programs.

[FR Doc. 78-2515 Filed 1-30-78; 8:45 am]

[4110-88]

Alcohol, Drug Abuse, and Mental Health Administration

MENTAL HEALTH SERVICES RESEARCH REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of February 1978:

MENTAL HEALTH SERVICES RESEARCH REVIEW COMMITTEE

Date and time: February 27, 28, and March 1, 9 a.m.
Place: La Posada de Santa Fe, 330 East Palace Avenue, Santa Fe, N. Mex.
Open: February 27, 9 to 10:30 a.m.
Closed: Otherwise.
Contact: James T. Cumiskey, Room 11C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3764.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health services research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 a.m. to 10:30 a.m., February 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: January 25, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-2564 Filed 1-30-78; 8:45 am]

[4110-03]

[Docket No. 77D-0430]

PNEUMOCOCCAL VACCINE, POLYVALENT

Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of guidelines for laboratory test procedures and lot release requirements for Pneumococcal Vaccine, Polyvalent.

DATE: Written comments by March 2, 1978.

ADDRESS: Requests for a copy of the guidelines and submission of written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:
Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Edu-

cation, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: On November 21, 1977, the Commissioner of Food and Drugs issued by Merck, Sharp, and Dohme U.S. License No. 2, a license to manufacture Pneumococcal Vaccine, Polyvalent. Notice is hereby given that guidelines for laboratory test procedures and lot release requirements for this product are on display at the office of the Hearing Clerk, Food and Drug Administration, address given above. Interested persons may obtain copies of the guidelines by contacting the office of the Hearing Clerk, and identifying the document with the Hearing Clerk Docket Number found in brackets in the heading of this document.

Dated: January 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-2408 Filed 1-30-78; 8:45 am]

[4110-03]

[Docket No. 78N-0022]

LEAD AND CADMIUM IN DECORATED GLASSWARE

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC), the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA) announce a public meeting of the interagency Task Force on Decorated Glassware to discuss the recommendations of the Task Force's staff toxicologists and those of an industry trade association, and other matters related to the risks to health that may be associated with the release of lead and cadmium from decorated glass tumblers.

DATE: The meeting will be held on March 7, 1978.

ADDRESS: The meeting will be held in Room 1409, Federal Office Building No. 8, 200 C Street SW., Washington, D.C. 20204, beginning at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT:

Edward A. Steele, Bureau of Foods (HFF-320), 200 C Street SW., Washington, D.C. 20204, 202-245-1426.

SUPPLEMENTARY INFORMATION: In July 1977, a task force composed of representatives from CPSC, EPA, and FDA was formed to investigate the release of lead and cadmium from external decorations on glass tumblers. The investigation is being pursued because of the general concern regarding lead and cadmium intake, especially as it might affect children who are exposed to this source.

The Task Force, which consists of Joseph P. Hile, Associate Commissioner for Compliance, FDA, David Schmeltzer, Associate Executive Director, CPSC, and Steven D. Jellinek, Assistant Administrator for Toxic Substances, EPA, was supported by a staff composed of experts on lead-related problems, including lead toxicity. The staff formed two subcommittees: the first was responsible for testing samples of decorated glass tumblers to determine the amount of lead or cadmium that would be released from the decorations under various test conditions; the second was responsible for assessing the significance of those results from the standpoint of potential risks to human health.

The purpose of the March 7, 1978 public meeting is to discuss the staff's recommendations and those of the industry trade association so that the Task Force may benefit from the comments and data of interested persons before adopting an approach to this problem. In addition to receiving comments on the staff recommendations and those of the industry association, the Task Force solicits the views of, and data from any other interested persons.

The following background documents are on file with the office of the Hearing clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may also be obtained form the contact person identified above:

1. Sampling and test methods for decorations on the outside of glass tumblers;
2. Summary of analytical results;
3. Toxicity considerations—recommendations of agency toxicologists;
4. Analysis of the problem and recommendations from the A-20 Subcommittee on Ceramic Enameled Decorated Glass Tumblers, Society of Glass Decorators.

The agency staff toxicologists have recommended, among other things, that decorations containing lead or cadmium not be permitted on the upper 20 millimeters of glass tumblers (the so-called "lip and rim" area), that a maximum level of extraction of 1,000 micrograms of lead and 100 micrograms of cadmium under prescribed conditions be established for the remainder of the exterior of the glass tumbler, that certain glasses already manufactured that release high levels of lead or cadmium be removed from commercial distribution, and that the decorated glassware industry undertake a quality assurance testing program for decorated glass tumblers produced in the future. The Task Force staff has recommended that the feasibility of relying on the industry to take these steps voluntarily, be explored.

Alternatively the A-20 Subcommittee of the glass Decorators Society has recommended a lip and rim extraction standard that would allow decorations in the lip and rim area of glassware. This standard calls for action levels of 7.0 parts per million lead and 0.5 part per million cadmium, which may be extracted using a prescribed method.

The meeting will be open to the public. It will be held on March 7, 1978, in Room 1409, Federal Office Building No. 8, 200 C Street SW., Washington, D.C. 20204. The meeting will begin at 9:30 a.m. The meeting will be chaired jointly by the Task Force Members.

At the commencement of the session, the Task Force and members of the subcommittees will summarize the information already available. The remainder of the morning session will be reserved for presentation of data, information, and views by interested persons. If necessary, an afternoon session will be held for further discussion of the issues. Persons who desire to make a presentation should notify Mr. Edward A. Steele, FDA, 202-245-1246, by the close of business March 3, 1978, and indicate the amount of time they wish to be allocated for their presentation. Persons who are unable to appear in person on March 7, 1978, may submit data, information, and views in writing to Mr. Edward A. Steele (address given above), by the close of business on March 7, 1978

Dated: January 25, 1978.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 78-2563 Filed 1-30-78; 8:45 am]

[4110-03]

[Docket No. 77P-0287]

P.L. Biochemicals, Inc.

Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The agency is issuing for public comment the recommendation of the Clinical toxicology Device Classification Panel that the GENTAMICIN E.R.A.™ Reagents for the Enzymatic Radiochemical Assay for Gentamicin be reclassified from class III (Premarket Approval) to class II (Performance Standards). This recommendation was made after review of a reclassification petition filed by P.L. Biochemicals, Inc., Milwaukee, Wis., under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)). After reviewing the panel recommendation and the public comments received, the agency will ap-

prove or deny the reclassification by order in the form of a letter to the petitioner. If the device is reclassified, the reclassification will be announced in the FEDERAL REGISTER.

DATE: Comments by March 2, 1978.

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

FOR FURTHER INFORMATION CONTACT:

S. K. Vadlamudi, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION: On September 7, 1976, P.L. Biochemicals, Inc., Milwaukee, Wis., submitted to FDA a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)) stating that it intended to market a device the manufacturer calls the GENTAMICIN E.R.A.™ Reagent for the Enzymatic Radiochemical Assay for Gentamicin. After reviewing the information in the premarket notification, the Commissioner determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976; nor is the device substantially equivalent to a device placed in commercial distribution since that date and subsequently reclassified. Upon this determination, the device is automatically classified into class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device which is in class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)) can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j).

On June 23, 1977, P.L. Biochemicals, Inc., submitted a reclassification petition for the device under section 513(f)(2) of the act. On October 6, 1977, the Clinical toxicology Device Classification Panel (panel) reviewed the petition and recommended that the device be reclassified into class II.

To determine the proper classification of the device, the panel considered the criteria in section 513(a)(1) of the act.

For the purposes of classification, the panel assigned to the device the name, "gentamicin test, enzymatic radiochemical assay" and described the device as a kit for enzyme immunoassay of serum or plasma. The device is used to detect the level of gentamicin in human serum or plasma. Gentamicin is an antibiotic used to treat infections. An excess of gentamicin can result in damage to the kidney. If use of this device indicates an excess of gentamicin, the physician will adjust the dosage prescribed for a patient. The panel recommended that all devices meeting this description be classified in class II.

SUMMARY OF THE REASONS FOR THE RECOMMENDATION

The panel made the following determinations in support of its recommendation:

1. The device is not an implant, nor is it life-sustaining or life-supporting.

2. The device is not potentially hazardous to life or good health when properly used.

3. The device is an in vitro diagnostic product. The device is used to quantitate the levels of gentamicin in human serum or plasma. A step-by-step protocol for use by the analyst has been included with the device. Performance data on accurancy, precision, and quantitation of interfering substances have been included. The device has performance characteristics that should be maintained at a satisfactory level.

SUMMARY OF THE DATA ON WHICH THE RECOMMENDATION IS BASED

To determine the safety and effectiveness of the device, it was used in a clinical study on a series of 57 samples of human sera. These same sera samples were run with a currently accepted methodology for gentamicin radioimmunoassay. The data showed that there is a good agreement between the two methods. The correlation coefficient was 0.9557. the data were obtained from a field clinical study and also from an in-house study. The panel believes that these studies adequately support the precision claim of the product. Adequate interference studies were conducted with this product, and the data were documented.

RISKS TO HEALTH

The panel noted that inaccurate analytical results from the use of the device could lead to inadequate treatment or produce toxic effects in patients if too much medication were administered.

Therefore, the panel recommended that the device be classified into class II and that a standard directed to the specificity and sensitivity of the device be developed. The panel recommended that development of this standard be a high priority.

The petition and a transcript of the panel meeting are on file in the Office of the Hearing Clerk, address noted above.

Dated: January 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for compliance.

[FR Doc. 78-2562 Filed 1-30-78; 8:45 am]

[4110-03]

[Docket No. 77N-0239]

PROPOSED MODEL RETAIL FOOD STORE SANITATION ORDINANCE

Availability; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice; extension of comment period.

SUMMARY: The comment period for the proposed Model Retail Food Store Sanitation Ordinance is extended, based on requests for extension, to provide additional time for submitting comments.

DATE: Comments by February 24, 1978.

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

FOR FURTHER INFORMATION CONTACT:

A. Sidney Davis, Bureau of Foods (HFF-220), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1511.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a notice in the FEDERAL REGISTER of October 25, 1977 (42 FR 56367), announcing the availability for comment of a proposed Model Retail Food Store Ordinance. Interested persons were invited to submit comments on the proposed ordinance by January 14, 1978.

The Commissioner has received written requests for extension of the comment period (on file with the Hearing Clerk, Food and Drug Administration) from the Food Marketing Institute, the Associated Retail Bakers of America, the National Association of Retail Grocers of the United States, and the National Associtation of Convenience Stores. The requests assert that additional time is necessary for them to evaluate and present comments from their members.

Good reason therefor appearing, the Commissioner extends the comment period in this matter to February 24, 1978.

Interested persons may, on or before February 24, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written

comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 25, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-2561 Filed 1-26-78; 10:48 am]

[4110-35]

Health Care Financing Administration

PHYSICIANS IN MINNESOTA

Designation of Professional Standards Review Organization for PSRO Area I

On November 18, 1977, I published a notice announcing the Secretary's intent to enter into an agreement with the Foundation for Health Care Evaluation, designating it as the Professional Standards Review Organization for PSRO Area I of Minnesota. That notice was also published in three consecutive issues of the Austin Daily Herald, the Mankato Free Press, Fergus Falls Daily Journal, the Minneapolis Tribune, the Minneapolis Star, the Forum, Post-Bulletin, the West Central Daily Tribune, St. Cloud Daily Times, St. Paul Pioneer Press, and the Duluth News-Tribune on November 18, 19, and 21, 1977.

In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the Area. Those organizations and facilities were asked to inform actively practicing member doctors as to the contents of the notice.

The notice provided that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I who objected to the proposed agreement on the grounds that the Foundation for Health Care Evaluation is not representative of doctors in that Area, mail a written objection to the Secretary on or before December 19, 1977.

The Secretary has determined that not more than 10 percent of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area I of Minnesota have expressed timely objection. Therefore, the Secretary has entered into an agreement with the Foundation for Health Care Evaluation, designating it as the Professional Standards Review Organization for PSRO Area I of the State of Minnesota.

Dated: January 20, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc. 78-2433 Filed 1-30-78; 8:45 am]

[4210—01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-78-497]

ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

Delegation of Authority

The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is hereby delegated authority to issue grants pursuant to Interagency Agreement between the Department of Housing and Urban Development and the Department of Labor dated November 3, 1977.

Effective date: This designation shall be effective January 31, 1978.

Dated: January 25, 1978.

PATRICIA ROBERTS HARRIS,
Secretary, Housing and Urban Development.

THIS INTERAGENCY AGREEMENT ENTERED INTO BETWEEN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AND THE U.S. DEPARTMENT OF LABOR (DOL) TO ARRANGE FOR THE CONDUCT OF A DEMONSTRATION PROJECT TO ESTABLISH AND ASSESS COMMUNITY IMPROVEMENT PROJECTS TO BE OPERATED BY COMMUNITY DEVELOPMENT CORPORATIONS AND OTHER NEIGHBORHOOD DEVELOPMENT ORGANIZATIONS UNDER CONTRACT FROM HUD

AGREEMENT NO. DOL 99-8-892-07-03—HUD IAA NO. H-9-78

The Department of Labor is authorized under section 348 (a) and (b) of the Youth Employment and Demonstration Projects Act of 1977 (YEDPA) to carry out a variety of demonstration projects to explore the feasibility and assess the effectiveness of innovative approaches to assist economically disadvantaged and other youth to complete high school, to enter the world of work, and to achieve job stability and advancement.

The purpose of the demonstration project covered by this agreement is to explore the feasibility and value, and test the effectiveness and impact of utilizing HUD selected community development corporations and other neighborhood development organizations (NDO's) to operate youth employment projects designed to lead to physical improvement of local communities and to improve the employability of youth who work in these projects.

About eight NDO's will be selected by HUD to operate local projects intended to have substantial impact on both youth unemployment and particular community inprovement needs. These sponsoring organizations will have proven capacity in a variety of community development program operations and will be nonprofit organizations representative of population segments of their communities.

The local program activities established by this demonstration project will meet the same basic regulations and procedures established by DOL for CETA prime sponsor operated Youth Community Conservation and Improvement Projects under YEDPA.

The major objectives of this demonstration project are (a) to explore whether HUD-selected NDO's can effectively link DOL demonstration funds with other funding sources to develop comprehensive community improvement projects, (b) to assess the value of the community improvement work product resulting from youth employment by NDO community improvement projects, (c) to measure the effects of NDO community improvement projects on youth participants' employability, and (d) to compare the NDO community improvement projects with those established in the same communities through regular formula-funds to CETA prime sponsors, with respect to (1) linkages with other funding sources, (2) nature of the community improvement work activities and products generated, (3) value of community improvements resulting from youth work, (4) retention in project work activities, and (5) employment and other post-project outcomes for youth.

The purposes of this interagency agreement by DOL and HUD are (1) to describe the functions to be performed by HUD and DOL in the administration, technical guidance and evaluation of the demonstration project, to be operated by NDO's under contract from HUD, and (2) to provide for the transfer of DOL funds to HUD for performance of the project.

CLAUSE I—ADMINISTRATION AND TECHNICAL GUIDANCE

(a) *Scope of Work.* It is agreed that HUD shall make arrangements with NDO's to conduct the project as described in the HUD proposal entitled "Proposal to the Department of Labor for a Demonstration Program under the Youth Employment and Demonstration Projects Act of 1977" dated September 27, 1977, which is incorpo-

rated herein by attachment. The project shall be carried out in accordance with HUD proposal, except as modified by this agreement. The proposal may be revised from time to time, on the basis of periodic consultation by HUD with DOL, to reflect any agreed upon refinements in emphasis warrented by project findings and new development. Any such changes must be approved by DOL in writing.

The major task of HUD in conduct of the demonstration project will include the following:

(1) Selection, upon consultation with DOL, of about eight NDO's and related sites for operating community improvement projects.

(2) Provide guidelines and technical assistance to selected NDO's for the design and implementation of community improvement projects.

(3) Arrange for provision of employment for about 1,200 unemployed youth through NDO-operated community improvement projects.

(4) Design and arrange an evaluation of the overall demonstration project to assess its feasibility and value, and to test its effectiveness and impact.

(b) *Administration.* It is agreed HUD shall be responsible for administering the demonstration. The functions to be performed include planning the design for the demonstration, selecting local operating organizations and sites, reviewing and negotiating work programs, budgets, and grant agreements between HUD and the local operating organizations, nonitoring the performance of the projects and providing them with technical assistance, and designing and administering the evaluation of the demonstration.

(c) *Technical Guidance.* DOL will review HUD's fullfillment of the terms of the interagency agreement as necessary. DOL is also to be kept fully informed by HUD on the project design and progress of the implementation and operation of the demonstration project. The NDO and site selection, and the evaluation design shall be subject to approval by DOL in writing.

(d) *Period of Performance.* This agreement shall cover a period of 20 months beginning October 17, 1977. Local NDO projects contracted through HUD will be financed for a 12 or 13 month period within the time period of the agreement. DOL has the right to terminate this agreement at any time; such termination shall be given in writing.

(e) *Deliverable Items.* The following items shall be delivered to the DOL project officer in original plus five copies as outlined below:

1. Progress report on initial implementation by January 1978.

2. Progress report on startup operations, and experiences of local projects by April 1978.

3. Progress report including 6 months operations of local projects and first evaluation findings by July 1978.

4. Progress report on local project operations, type of participants served, types of work performed, and interim evaluation findings by October 1978.

5. Draft final report on the demonstration project and evaluation by January 1979.

6. Final report on the feasibility and effectiveness of the demonstration project by termination date of agreement (50 copies of final report).

CLAUSE II—TRANSFER OF FUNDS TO HUD

Funds in the amount of $8,000,000 are hereby obligated by DOL under the Youth Employment and Demonstration Projects Act of 1977 for purposes specified in this agreement. It is anticipated that HUD will contribute in-kind support services in the amount of $200,000 for the administration and evaluation of the project.

Upon signing this interagency agreement, DOL will prepare and submit to Treasury for execution a completed SF-1151, Non-Expenditure Authorization.

CLAUSE III—MONITORING

The DOL shall appoint a project officer to monitor performance under this agreement. He/she will represent the contracting officer, but is not authorized to change any of the terms and conditions of the agreement. Such changes, if any, shall be accomplished only by the contracting officer through a properly executed modification to the interagency agreement.

Work hereunder shall be subject to review by the DOL project officer at all reasonable times. Acceptance of all work hereunder shall be made by the project officer, upon determination of satisfactory performance and receipt of acceptable reports/materials as required to be furnished hereunder. Reports required hereunder are subject to final approval of the project officer.

For the Department of Housing and Urban Development.

Dated: October 18, 1977.

J. E. HOTTINGER,
Director, Procurement and Grants Division.

Dated: November 3, 1977.

For the Department of Labor.

WILLIAM J. KACVIXSKY,
Contracting Officer.

SEPTEMBER 27, 1977.

PROPOSAL TO THE DEPARTMENT OF LABOR FOR A DEMONSTRATION PROGRAM UNDER THE YOUTH EMPLOYMENT AND DEMONSTRATION PROJECTS ACT OF 1977

The Department of Housing and Urban Development proposes to administer a demonstration program under the Youth Community Conservation and Improvement Program (CETA Title III, Part C, Subpart 2) of the Youth Employment and Demonstration Projects Act of 1977. The program will be operated through the office of the HUD Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection (specifically by the Office of Neighborhood Development) with close cooperation from other parts of the Department, particularly the Assistant Secretary for Policy Development and Research, who will be responsible for overseeing evaluation of the program.

OBJECTS OF THE DEMONSTRATION

The purpose of the demonstration is to explore the feasibility and value, and test the effectiveness, of utilizing community development corporations and other neighborhood organizations to operate youth employment projects involving the improvement of local communities. HUD will select a limited number of local organizations and will fund them directly with grants averaging $1 million to operate projects intended to have substantial impact on both youth unemployment and particular community improvement needs. The sponsoring organizations will have proven capacity in a variety of program operations and will be neighborhood-based, non-profit organizations representative of their communities.

The projects funded by HUD under this demonstration program will operate under the same rules and regulations as the prime sponsors' formula-funded YCCIP projects. The local work programs and budgets will be developed by the local organizations selected by HUD and will be reviewed and approved by HUD according to criteria set out later in this proposal. Since each community will have different needs and programatic approaches, the actual program content will vary from city to city. The constant factors will be program delivery directly through neighborhood organizations, and emphasis on visible community improvements related to the organizations' overall strategies for neighborhood conservation and development.

All of these projects will "provide constructive work conducted by youths, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months."

As outlined in the Department of Labor's Knowledge Development Plan for YEDPA (September 5, 1977), this

demonstration seeks to test the hypotheses that:

(a) CDC's can more effectively link youth Community Improvement efforts to other funding sources and, if so, whether there is a multiplier effect reflected in project outcomes;

(b) CDC's can facilitate particular productivity by youth which is not generated by formula-funded projects; and

(c) The nature and value of project accomplishments have distinctive qualities which distinquish the CDC efforts from those of formula-funded projects.

HUD'S OFFICE OF NEIGHBORHOOD DEVELOPMENT

The operating agency in HUD for this demonstration will be the new Office of Neighborhood Development under the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. Its mandate is to provide capacity-building assistance to neighborhood organizations to enable them to assume a full partnership in the effort to solve America's urban problems. As part of this, the OND will act as broker in securing for its client organizations access to resources, technical assistance, and program funds from HUD and other Federal agencies. This demonstration is part of that effort.

CDC'S AND COMMUNITY IMPROVEMENT

The organizations that are potential operators of this demonstration locally are already involved in the kinds of community improvement projects outlined in subpart 2 of YEDPA and their ongoing activities will form the basis of their youth employment strategy, and not the reverse, as more usually the case. Collectively, these organizations have operated programs combining funding from several Federal programs: HUD (community development block grants, housing assistance programs, research and demonstration), EDA (public works, technical assistance grants), CSA (weatherization), OMBE and SBA (venture loans).

We offer the following as examples of the kinds of projects to be developed locally:

Rehabilitation or improvement of public facilities: CDC's are currently involved in rehabilitating both public housing and HUD-assisted housing, and in some cases are managing these. Other possibilities are converting vacant lots into playgrounds, recreation areas, and community gardens.

Neighborhood improvements: The opportunities range from small-scale commercial revitalization, through appropriate technology projects, to local "public works" such as sidewalk and streetlight repairs and maintenance.

Weatherization and basic repairs to low-income housing: Concerns with conservation of existing housings and energy conservation efforts have stimulated such projects which are often conducted jointly.

SELECTION OF OPERATING ORGANIZATIONS

The key element in a successful demonstration program will be the selection of the local organizations which will run the projects. HUD will utilize a variety of sources to help determine the most effective operators—including HUD central and field staff, appropriate staff of the Department of Labor, the Office of Economic Development in the Community Services Administration, the Ford Foundation, and a number of national organizations which deal with neighborhood and community development organizations. The process of contacting these sources is well underway and will be augmented by field visits to the project sites, as well as regional and Washington meetings of potential operators.

Emphasis in selecting the operating organizations will be on program administration capacity. HUD will be seeking organizations which have stability and proven administrative experience. Because of the large grants involved (averaging $1 million), only those CDC's operating programs totaling more than $1 million annually are likely to be considered. Successful operators will be groups which have strong bases in their communities and which have demonstrated the ability to have a positive impact on their neighborhoods. They must have experienced staff and program management capacity in planning, budget, fiscal control, and program operations. They must be capable of mounting a new program quickly and effectively.

These organizations will have experience in working with unemployed and disadvantaged youth, although previous direct operation of youth employment projects will not be an absolute prerequisite for participation. HUD will look for indications that the organizations are knowledgeable about the nature of youth unemployment in their areas, the kinds of resources currently available to reduce such unemployment, the additional program needs which could be met under the YCCIP, and the ability to combine youth employment with other programs, such as weatherization or rehabilitation.

The final group of eight organizations will represent a balance of large, medium, and small cities; geographic distribution; ethnic representation; and community development corporations and other neighborhood organizations. ("Community development corporations" include established groups supported by the Ford Foundation and the Community Services Administration's Title VII economic development program in particular. "Neighborhood organizations" are a more broadly defined collection of groups with community improvement objectives and various private and public means of support).

At the conclusion of the information-gathering process, HUD will designate those organizations to be operators under the demonstration program, based on the criteria listed below. Only if a designated organization failed to submit an adequate program plan or demonstrated in some other way its inability to perform, would HUD not proceed to contract with the organization for project operations. HUD would designate a sufficient number of organizations to have a "reserve" in the event of any such failures to proceed. HUD will designate program operators by the end of October.

The factors to be utilized by HUD in making selections follow:

1. Strength and representativeness of the organizations, as indicated by: (a) Number of individual members; number of organization members; (b) age and brief history; (c) issues in which the organization has demonstrated leadership; (d) geographic area covered by the organization; (e) participation of ethnic groups compared with their presence in the area; (f) reresentativeness and leadership capacity of board officers and members; (g) indications that other groups, public agencies, and elected officials recognize the organization; (h) type, purposes, and legal status.

2. Staff capacity: (a) Size and organization of the staff by functions and positions; (b) background and experience of executive director and other staff responsible for major programs and functions; (c) tenure of staff holding key positions; (d) any major internal problems and indications of how they have been or will be resolved.

3. Program experience: (a) Description of major programs operated by the organization, including funding source and amount, period of operation, primary objectives, status of operations, prospects for continuation; (b) results of any internal or outside evaluations; staffs' own assessment of effectiveness; (c) more detailed descriptions of any youth employment, training, or related programs.

PROJECT WORK PROGRAMS AND BUDGETS

Once the local project operators have been selected by HUD, they will be responsible for submitting additional information, detailed work programs and budgets. The requirements of the regulations (97.611) are to be followed here.

"All project applications must contain the following information:

(a) Name of agency or organization applying for project funds, type of agency.

(b) *Description of Project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need; (2) the types of jobs youth are to perform; (3) the full time supervisor to youth ratio, or its equivalent, and the reason for selecting the ratio; (4) the qualifications of the supervisors in terms of necessary skills, and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and (5) the beginning and ending dates of the project;

(c) *Participants.* (1) Identification of the number of participants to be enrolled and their expected duration of employment; (2) List of target groups to be served and recruiting plans; (3) Description of the expected benefits to participants, e.g., skills to be obtained, other positive terminations anticipated, academic credits to be earned, etc.;

(d) *Job titles, descriptions and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid for each. If job restructuring is to occur, a description of the methods of analysis to be used, the expected results, the methods for soliciting consultation of appropriate labor organizations and the relevant expertise of personnel who performed the restructuring; and (2) The participation of appropriate labor organizations and other affected organizations with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and (f) Budget. Totals for the following line items: (1) Direct program costs as defined in 98.12(f)(6)(iii); (2) Costs of wages and fringe benefits of work site supervisors; (4) Costs of job-related training; (5) Costs of materials, supplies and equipment used by participants on the job; and (6) Costs of supportive services for participants."

In addition, the operating organizations will submit: (1) a description of the community; (2) a statement of youth employment problems there; (3) special supportive services to be provided; (4) outcomes for the community (e.g., houses weatherized, facilities maintained, etc.); (5) use of other community resources; (6) other funding and resources to be used; (6) staffing pattern; (7) staff recruitment and training plan; (8) indication of project director and key staff where possible; (9) budget, including all funding sources; (10) schedule for start-up, phase-in, and full operation of project; (11) plans to collect data on participants and operations needed for evaluation; (12) projected performance standards—including number of participants, costs/participant, measures of community improvements; (13) commitments of local support from city officials, businesses, labor organizations, and others where needed; (14) compliance with civil rights and other federal contract requirements.

Based on the acceptable project activities outlined in the regulations (97.624):

"Each project shall insure that each participant does constructive work in terms of individual and community benefits during participation in the program. Such employment shall be in projects that may include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repair to low income housing as defined in Section 97.602; energy conservation including solar energy projects; and conservation, maintenance, or restoration of natural resources of non-Federal publicly held lands.

Training provided must be directly related to a participant's job. Where school youth are served, they must be in a structured combination work and education program. Educational agencies are to be encouraged to award academic credit for the competencies participants gain from their employment."

HUD will approve the local work programs and budgets according to criteria, based on the minimum standards outlined in the regulations, and including the following items:

1. *Quality of the overall project design.* (a) Includes all information required in this agreement and in the regulations (97.601–631); (b) clarity of problem statement and the project design related both to neighborhood needs and the objectives of the demonstration program; (c) coordination with other funding sources and resources; (d) Relationship to local prime sponsor; (e) Relationship to other programs run by the organization; (f) Relationship to other programs in the neighborhood.

2. *Prospects for success.* (a) Program will be adopted and supported in the community; (b) Organization has the capacity to implement the program quickly and operate it effectively; (c) Program relates well to other programs run by the organization and other programs in the neighborhood.

(d) Likelihood that the organization can continue and expand the program.

3. *Specific program objectives that are measurable.* (a) Enroll x youths in the program within y months. (b) Accomplish targeted community improvements. (c) Place program participants into ongoing jobs, training, or school.

In addition, the criteria outlined in the regulations (97.613 a–c) will be applied. This process of local project design, review, and approval should be completed by December 1.

RESEARCH AND EVALUATION

To test the hypothesis upon which this demonstration is based, HUD will do a process evaluation of the local operator's practices, problems, and achievements and then compare this data with that from a sample of formula-funded YCCIP projects. The objectives of this evaluation will be to determine: (a) The impact on the communities of the projects conducted; (b) the effect of these projects on the participants; (c) the overall effectiveness of the two type of sponsors.

A number of factors and performance variables will be utilized to make these determinations:

A. COMMUNITY IMPACT

1. The amount of resources brought into the neighborhoods. The actual amounts will be compared with other youth employment amounts coming into the same neighborhoods to assess whether the HUD demonstration provides for a concentration of resources which will have a demonstrable community impact.

2. Work activities. The kinds of work performed under the HUD demonstration will be compared with work sites developed under other youth employment projects to assess whether the CDC's and neighborhood organizations make improvements which are of more use; are longer-lasting; and whether they can facilitate productivity greater than that of formula-funded projects.

3. Value of community improvements. The actual value of community improvements will be measured; based, for example, on the amount of weatherization done, numbers of sidewalks repaired, number of new park facilities, amount of repair to HUD housing stock, and so forth. Where possible, the dollar values of improvements made by the CDC's and neighborhood organizations will be compared with the value of improvements made under other youth employment projects.

4. Accomplishment of community plans. The extent to which work done by CDC's and neighborhood organizations meets the objectives of existing community plans—such as housing assistance plans, community development block grant applications, existing city plans, and plans of community and civic organizations—will be examined.

B. EFFECT OF PARTICIPANTS

1. Kinds of jobs. The actual jobs established for youths in the CDC's and neighborhood organizations will be compared with the jobs in other youth employment programs to assess whether jobs under the HUD demonstration are better from the standpoint of usefulness, satisfaction, and interest of the work; training and/or education value; and career potential.

2. Project drop-out rates. The drop-out rate from CDC and neighborhood organization projects will be compared with other youth employment projects.

3. Placement rate. The rate of positive terminations from CDC and neighborhood projects will be compared with other youth projects. Positive terminations include return to school, training, regular employment, and military. These measures will be refined where possible to include factors such as wage rates for job placements, quality of training, etc. Follow-up to determine intermediate status of placement outcomes will be performed to the extent evaluation funding will permit.

4. Characteristics of participants. Characteristics of CDC and neighborhood organization project participants will be compared with those of other youth employment projects to assess whether there are significant differences in the kinds of youths served; based on factors such as race, family income, education, previous employment, drug and alcohol abuse, criminal offenses (if available), and receipt of public assistance. It is assumed that all YEDPA projects will collect common information from participants at intake.

C. OVERALL EFFECTIVENESS

1. Organization of the demonstration. The effectiveness of the CDC's and neighborhood organizations in developing projects under direct funding from HUD will be assessed by determining the time required for project planning and project start-up and the kinds of problems which occur in mounting the projects.

2. Coordination of resources. The ability of the CDC's and neighborhood organizations to generate funds from other federal grants, state and local funds, and private and community sources and their ability to coordinate these resources in an effective manner will be assessed.

3. Size of projects. The net numbers of new youth jobs created by the HUD demonstration, accounting separately for jobs created with YEDPA and other coordinated funding, will be measured. These numbers will be compared with all other youth jobs created in the same communities and with the youth unemployment rate.

4. Technical assistance. The usefulness of HUD technical assistance to CDC's and neighborhood organizations will be assessed by making judgments about the relative program capacities of the organizations at the beginning and the end of the demonstration. Judgments will be made about the capacity of the organizations to improve their neighborhoods as a result of program participation. It is anticipated that several of the organizations to be designated for funding will require no technical assistance, based on their present track records; several will require some help; and several will be relatively higher risk organizations with less program experience than the others. Even in this latter category, however, the organizations will have demonstrated stability, representativeness, and staff experience.

5. Management efficiency. The CDC's and neighborhood organizations will be measured on their management efficiency in operating projects, based on such factors as cost-participants, ratio of administrative overhead costs to wage and program costs, rates of expenditures compared with budgeted amounts and adherence to hiring goals and other project timetables.

Information on the problems and progress of the demonstration will come from several sources:

(a) Monitoring reports on project operations prepared by HUD/NVACP regional and national office staff.

(b) The same reporting systems required of conventional project operators through the CETA process will be required of demonstration local operators. (These will provide periodic updates on participants' characteristics, enrollment levels, termination data, expenditures, etc.)

(c) A process evaluation done by an outside contractor which will identify and report on practices, problems, issues and progress of operations at the local level.

For each of these we will have comparative data from a sample of conventionally funded YCCIP projects (which will serve as a control group) as well as from the other YCCIP demonstration projects.

Hud plans to contract for conduct of the evaluation and for assistance in refining the evaluation design and methodology. The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection will have day-to-day authority for overseeing the program evaluation, and the Assistant Secretary for Policy Development and Research will review the evaluation design and methodology and will oversee the administration of the evaluation program and participate in all major reviews of progress. An evaluation coordinator will be retained on the HUD demonstration program staff with responsibility to monitor the evaluation contractor and to maintain liaison with the office of the Assistant Secretary for P.D. & R. and the Department of Labor.

ADMINISTRATION, MONITORING, AND TECHNICAL ASSISTANCE

A new temporary Division of Manpower Programs in the Office of Neighborhood Development will have overall responsibility for administering the demonstration. The functions to be performed include preliminary planning to establish the framework for the demonstration, selection of local operating organizations, review and negotiation of work programs, budgets and grant agreements between HUD and the local operating organizations, monitoring the performance of the projects and providing them with technical assistance, and administering the evaluation of the demonstration. The planning, selection and evaluation functions have been discussed previously. The conduct of project monitoring and provision of technical assistance required further elaboration.

Program plans and youth employment activities will be generated at the local level by the community development corporations and neighborhood organizations. During the developmental period (the month of November), HUD staff will assist the local organizations in preparing their program plans and in negotiating grant contracts which include specific performance standards. Assistance will be provided to ensure that data necessary for project evaluation and research will be collected and that the projects will be on a firm fiscal and management basis. In addition, HUD will help the operating organizations to secure grants from other federal agencies and other support necessary to the operation of their projects. Finally, staff will monitor the performance of each operating organization to ensure that program research and fiscal requirements are being met. Workshops will be conducted for neighborhood groups and community development corporations during the planning period and at appropriate points in project operations.

Full-time HUD support staff to perform these functions will include a Project Director with overall responsibility for management of the demonstration and primary accountability to the Department of Labor; a program staff with the technical assistance and monitoring responsibilities for the operating organizations; a fiscal and management staff necessary for administration and support of the demonstration; and a research and evaluation staff responsible for administering the evaluation contract, conducting the narrative evaluation, and providing liaison with HUD/P.D. & R. staff, the operating organizations and

Department of Labor evaluators. Funds have also been budgeted for consultants to assist in program development, evaluation and other aspects of program operations.

TIMETABLE

September 21–September 30: Negotiation of a proposal with the Department of Labor to secure an interdepartmental agreement for transfer of administration and operating funds to HUD.

October 1–October 15: Preliminary meetings with groups which are potential operating organizations for local projects.

October 31: Designation of operating organizations by HUD. Key HUD project staff selected.

November 1–November 30: Development, review, approval of local project designs, budgets. HUD project staff completed. Evaluation design completed and contracted.

December 1–December 31: Local project site development, staffing, recruiting.

January 1: Local projects begin hiring youth.

BUDGET FOR THE DEMONSTRATION

The budget for the demonstration program is divided into two parts: an estimated budget for the local organizations to operate projects, and the overhead budget for HUD, including estimated costs for administration, program support and evaluation. The budget is based on an $8 million allocation from the Department of Labor. At least 95 percent is budgeted for projects; 5 percent or less for overhead.

Local Operating Organizations. The following sample budget for a project of $1 million indicates a breakdown of the costs of operation. Actual project budgets will range from approximately $500,000 to $1,500,000, depending on the size of the city, youth employment levels, and project capacity.

Function	Items	Percent	Amount
1. Participants	Wages, benefits, expenses.	65	$650,000
2. Worksite supervisors	do	15	150,000
3. Job-related training	Materials, equipment, services.	3	30,000
4. Worksite support	do	5	50,000
5. Supportive services for participants	Personal services, etc	2	20,000
6. Administration	Direct program costs	10	100,000
Total			1,000,000

This includes only the DOL portion of funds that projects would spend and assumes the minimum amount allowed for participants' benefits and the maximum for administration. Assumed are $2.65/hr wages and 17 percent for fringe benefits and expenses. This would fund a minimum of 100 participant/years in 9 crews of eleven. Local projects will be encouraged to better these minimums by decreasing non-participant expenditures and utilizing other resources, such CSA weatherization funds for supplies and the use of "public service employees" under other CETA titles as supervisors.

HUD ADMINISTRATIVE BUDGET

[In thousands of dollars]

Position and level	Total
I. Direct costs	
A. Full time staff:	
Administration	
1. Director—GS-14	35
2. Administrative and fiscal officer—GS-13	29
3. Secretary—GS-7	14
Evaluation:	
4. Evaluation coordinator—GS-13	29
5. Research analyst—GS-12	25
6. Clerk-typist—GS-5	10
Program:	
7. Field coordinator—GS-13	29
8. Program specialist—GS-12	25
9. Clerk-typist—GS-5	10
Subtotal (includes salaries and fringe benefits)	206
B. Contract services, including consultants (evaluation, program support, etc.)	75
C. Travel (for FT staff and consultants)	15
D. Space (including utilities, etc.)	15
E. Other costs (telephones, copying, equipment, furnishing, etc.)	15
Subtotal	326
II Indirect costs	
A. Part-time staff (including 10 pct of 12 OND field staff)	44
B. Contract services (including consultants)	10
C. Travel (for PT staff and consultants)	5
D. Space (for PT staff)	5
E. Other costs (general overhead items)	5
Subtotal	74
Total costs	400

It is anticipated that half of this total (or $200,000) would be provided by HUD and that the remainder would come from off the top of the DOL interagency transfer of funds (amounting to 2½% or half what DOL is allowing prime sponsors to administer conventional, formula-funded YCCIP projects).

The amounts budgeted allow for $7.8 million of the combined budget of $8.2 million to be spent in the field by the local projects.

This understates the actual extent of the commitment of HUD resources to this demonstration. We have not included dollar figures for the commitment of HUD housing inventory or FHA Insuring Fund contractual services for rehabilitation and routine maintenance which are currently the subject of negotiations between the HUD Assistant Secretaries for Housing, and for Neighborhoods. Nor does this include any resources from other federal agencies for which HUD is currently negotiating on behalf of potential local sponsors.

[FR Doc. 78-2577 Filed 1-30-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFSHORE EASTERN GULF OF MEXICO

Availability of Draft Environmental Statement and Holding of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 65

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 116 tracts consisting of 270,024 hectares (667,229 acres) of submerged lands on the OCS in the Eastern Gulf of Mexico.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, La. 70130, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries: Harrison County Library, P.O. Box 4018, 21st Avenue and Beach, Gulfport, Miss.; Mobile Public Library, 701 Government Street, Mobile, Ala.; Montgomery Public Library, 445 South Lawrence Street, Montgomery, Ala.; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Fla.; West Florida Regional Library, 200 West Gregory, Pensacola, Fla.; NW. Regional Library System, 25 West Government, Panama City, Fla.;

Leon County Public Library, 127 North Monroe, Tallahassee, Fla.; Lee County Free Library, 3355 Fowler Street, Fort Myers, Fla.; Charlotte-Glades Regional Library System, 801 NW. Aaron Street, Port Charlotte, Fla.; and Tampa-Hillsborough County Public Library System, 800 North Ashley, Tampa, Fla.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on March 7 and 8, 1978, in Tampa, Fla., at the Sheraton Tampa Motor Hotel, 515 East Cass Street, Tampa, Fla., for the purpose of receiving comments and suggestions relating to the proposed lease sale. Should expressed public interest warrant it, the hearings may extend into a third day (March 9).

The hearing will provide the Secretary with additional information from both public and private groups to help evaluate fully the potential effects of the proposed offering of 116 tracts on the total environment, aquatic resources, esthetics, recreation, and other resources in the entire area during the exploration, development, and production phases of the OCS leasing program. The hearing will also provide the Secretary with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives, or organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:15 p.m., March 2, 1978. Written comments from those unable to attend the hearing also should be addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at the above address. The Department will accept written testimony and comments on the draft environmental statement until March 17, 1978. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to 10 minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the Manager, New Orleans Outer Continental Shelf Office, at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and analyzed, a final environmental statement will be prepared.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

[FR Doc. 78-2560 Filed 1-30-78; 8:45 am]

[4310-10]

Office of the Secretary

ANIMAL DAMAGE CONTROL POLICY STUDY ADVISORY COMMITTEE

Charter

1. The official designation of the committee is the Animal Damage Control Policy Study Advisory Committee.

2. The purpose of the committee is to provide a diverse reservoir of expertise for the policy analysis which is focused on the problems of mammal predation on western livestock. Specifically, the committee will help validate the use and interpretation of data and help assure that options are properly enunciated, that the analysis is technically sound, and that the study is balanced and fair and conducted in an open manner. The committee will serve to temper the differing concerns and views of the livestock industry and the conservation and environmental communities.

3. In view of the goals and purposes of the committee, it is expected to last for 180 days.

4. The committee is established under the chairmanship of the Deputy Assistant Secretary for Fish and Wildlife and Parks.

5. Support services for the committee are provided by the U.S. Fish and Wildlife Service, Department of the Interior.

6. The duties of the committee are solely advisory and are as stated in paragraph 2. Decisionmaking remains the prerogative of the Director, U.S. Fish and Wildlife Service, the Assistant Secretary for Fish and Wildlife and Parks, and the Secretary.

7. The estimated operating cost of this committee is $15,000, which includes the cost of ¼ man-year of staff support.

8. The committee will meet at least twice but not more than four times during the study.

9. The committee will terminate on July 31, 1978, unless renewed by the Secretary prior to this date.

10. The chairperson of the committee is the Deputy Assistant Secretary for Fish and Wildlife and Parks. The committee will consist of a balanced cross-section of representatives from the western livestock industry, environmental-conservation community, state government, academia, and the Federal Government. Members will serve for the entire tenure of the committee. Members will be appointed by the Secretary.

11. The committee is not composed of any formal subcommittees or subgroups.

12. The committee is established by the Secretary to carry out the provisions listed in paragraph 2. The authority is in accordance with the provisions of the Animal Damage Control Act of March 2, 1931 (7 U.S.C. 426-426b; 47 Stat. 1468). Control functions transferred from the Department of Agriculture to the Department of the Interior in 1939 by Reorganization Plan No. II.

Date signed: January 13, 1978.

Date charter filed: January 24, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-2566 Filed 1-30-78; 8:45 am]

[4310-10]

ANIMAL DAMAGE CONTROL POLICY STUDY ADVISORY COMMITTEE

Establishment

This notice is published in accordance with the provisions of 5 U.S.C. 552(a)(1), and section 9(a)(2) of the Federal Advisory Committe Act (Pub. L. 92-463, 5 U.S.C. App. 1). Following consultation with the General Services Administration notice is hereby given that the Secretary of the Interior is establishing the Animal Damage Control Policy Study Advisory Committee concomitant with a comprehensive policy analysis of the problems of mammal predation on Western livestock. The committee will help validate the use and interpretation of data, help assure that options are properly enunciated, that the analysis is technically sound, fair and balanced, and that the study is conducted in an open manner. Such advice is consistent with enhancing the missions of the Department of the Interior. The certification of establishment is published below.

CERTIFICATION

I hereby certify that the Animal Damage Control Policy Study Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of the Interior.

Dated: January 13, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-2565 Filed 1-30-78; 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 23, 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 February 10, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Lee County

Auburn, *Old Main and Church Streets Historic District*, Gay and College Sts., Drake, Bragg, and Mitcham Aves.

DISTRICT OF COLUMBIA

Washington

Civil War Fort Sites (boundary increase to include Fort Foote in Prince Georges County, MD, and Fort Marcy in Fairfax County, VA).

KENTUCKY

Fayette County

Lexington, *South Hill Historic District*, roughly bounded by Broadway, High, Limestone, and Pine Sts.

Franklin County

Frankfort vicinity, *Giltner-Holt House*, 5 mi. (8 km.) N of Frankfort on Holt Lane.

Gallatin County

Warsaw, *Montz, Dr. Lucy Dupuy, House*, 200 W. High St.

Harlan County

Bledsoe vicinity, *Pine Mountain Settlement School*, E of Bledsoe on KY 510.

Jefferson County

Louisville, *Limerick Historic District*, between Breckinridge and Oak, 5th and 7th Sts.

Louisville, *Portland Historic District*, roughly bounded by 33rd, N. Western, 34th, Pflanz, 35th, Bank, 37th, and Missouri Alley.

McCracken County

Paducah, *Paducah Market House District*, 2nd St. between Broadway and Kentucky Ave.

Mercer County

Harrodsburg vicinity, *Greek Revival Houses of Mercer County (Walnut Hall Lynnwood, Glenworth)*, N and E of Harrodsburg off U.S. 127.

Scott County

Georgetown, *Georgetown East Main Street Residential District*, irregular pattern along Main St. between Warrendale Ave. and Mulberry St.

Whitley County

Corbin, *Louisville and Nashville Railroad Depot*, Lynn Ave.

MAINE

Bristol County

Swansea vicinity, *Luther Store*, W of Swansea at 160 Old Warren Rd.

Middlesex County

Cambridge, *Carpenter Center for the Visual Arts*, 19 Prescott St.

Plymouth County

Brockton, *Dean, Dr. Edgar Everett, House*, 81 Green St.

MARYLAND

Prince Georges County

Civil War Fort Sites. Reference M See Washington, DC.

NEW HAMPSHIRE

Sullivan County

Claremont, *Historic Resources of Downtown Claremont and Lower Village: Partial Inventory*, irregular pattern along Main and Broad Sts.

NEW JERSEY

Burlington County

Pemberton, *North Pemberton Railroad Station*, Hanover St.

Willingboro vicinity, *Coopertown Meetinghouse*, NW of Willingboro on Cooper St.

Cumberland County

Bridgeton, *Giles, Gen. James, House*, 143 W. Broad St. HABS.

Essex County

Newark, *Wickcliffe Presbyterian Church*, 111 13th Ave.

Nutley, *Kingsland Manor*, 3 Kingsland St.

Monmouth County

Holmdel vicinity, *Holmes-Hendrickson House*, N of Holmdel on Longstreet Rd.

Long Branch, *Elberon Railroad Station*, Lincoln Ave.

Morris County

Dover vinicity, *Tuttle, David, Cooperage*, S of Dover at 83 Gristmill Rd.

Whippany, *Our Lady of Mercy Chapel*, 100 Whippany Rd.

Salem County

Salem vicinity, *Finn's Point Rear Range Light*, NW of Salem at jct. of Fort Mott and Lighthouse Rds.

Salem vicinity, *Holme, Benjamin, House*, W of Salem on Fort Elfsborg-Hancock Bridge Rd. HABS.

NEW YORK

Bronx County

Bronx, *Valentine-Varian House*, 3266 Bainbridge Ave.

Rensselaer County

Hoosick vicinity, *Tibbits House*, S of Hoosick at jct. of NY 7 and NY 22.

Washington County

Buskirk vicinity, *Covered Bridges of Washington County*, N of Buskirk off NY 22 near VT boundary.

RHODE ISLAND

Providence County

Cranston, *Knightsville Meetinghouse*, 67 Phenix Ave.

Providence, *Lynch, Matthew, House*, 120 Robinson St.

Washington County

Carolina vicinity, *Hoxsie, John, House*, 0.75 mi. (1.2 km) N of Carolina off RI 112.

Carolina vicinity, *Jeffrey, Joseph, House*, S of Carolina on Town House Rd.

SOUTH CAROLINA

Charleston County

Charleston, *Charleston Historic District* (boundary increase).

TEXAS

Tarrant County

Fort Worth, *Anderson, Neil P., Building*, 411 W. 7th St.

VIRGINIA

Fairfax County

Civil War Fort Sites. *Reference M See Washington, DC.*

WASHINGTON

King County

Seattle, *Seattle Electric Company Georgetown Steam Plant*, off WA 99 at King County Airport.

[FR Doc. 78-2405 Filed 1-30-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[AA1921-179]

CARBON STEEL PLATE FROM JAPAN

Investigation and Hearing

Having received advice from the Department of the Treasury on January 18, 1978, that carbon steel plate from Japan is being, or is likely to be, sold at less than fair value, the United States International Trade Commission on January 23, 1978, instituted investigation No. AA1921-179 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in Seattle, Wash., on Tuesday, March 7, 1978, at a time and place to be announced later. All persons shall have the right to appear by counsel or in person, to present evidence and to be

heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, March 2, 1978.

By order of the Commission.

Issued: January 25, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-2536 Filed 1-30-78; 8:45 am]

[7020-02]

[332-87]

CONDITIONS OF COMPETITION IN WESTERN U.S. STEEL MARKET BETWEEN CERTAIN DOMESTIC AND FOREIGN STEEL PRODUCTS

Change of Date and Time and Place of San Francisco Hearing

Notice is hereby given that the public hearing in this matter, previously scheduled to begin on Tuesday, March 14, 1978, will now be held beginning at 9:30 a.m., P.s.t., Tuesday, April 11, 1978, in room 2021, the Federal Building and Courthouse, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Requests for appearances at the hearing should be received, in writing, by the Secretary of the Commission in his office in the United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, Thursday, April 6, 1978.

Notice of the time and place of the Portland, Oreg., hearing was published in the FEDERAL REGISTER of January 16, 1978 (43 F.R. 2244), and notice of the investigation and public hearings was published in the FEDERAL REGISTER of June 15, 1977 (42 F.R. 30555).

By order of the Commission.

Issued: January 25, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-2535 Filed 1-30-78; 8:45 am]

[7020-02]

[22-41]

CANE AND BEET SUGARS, SIRUPS, AND MOLASSES

Enlargement of Scope of Investigation and Postponement of Hearing

Enlargement of scope of investigation. At the request of the President (reproduced herein), the U.S. International Trade Commission, on January 26, 1978, enlarged the scope of its investigation under subsection (a) of section 22, of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), to determine whether—

in addition to sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS),

sugars, sirups, and molasses, provided for in items 155.35 and 155.75 of the TSUS, and articles provided for in items 156.25, 156.45, 157.10, and 182.98 of the TSUS if containing sugars, sirups, and molasses of the types described in items 155.20, 155.30, 155.35, and 155.75 of the TSUS,

are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane or sugar beets.

The text of the President's letter of January 20, 1978, to the Commission follows:

Pursuant to Section 22 of the Agricultural Adjustment Act, as amended, I have been advised by the Secretary of Agriculture that there is reason to believe that the sugars, sirups, and molasses provided for in items 155.35 and 155.75 of the Tariff Schedules of the United States (TSUS) and articles provided for in items 156.25, 156.45, and 157.10 and 182.98 of the TSUS if containing sugars, sirups, and molasses of the types described in items 155.20, 155.30, 155.35, and 155.75 of the TSUS are being or are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets or to reduce substantially the amount of any product being processed in the United States from domestic sugar.

I agree with him.

The United States International Trade Commission is directed to expand the investigation requested in my letter of November 11, 1977, under Section 22 of the Agricultural Adjustment Act, as amended, to determine whether the above described articles are being, or are practically certain to be, imported under such conditions and quantities as to render or tend to render ineffective or materially interfere with the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane and sugar beets, and to report its findings and recommendations to me at the earliest practicable date.

Because of the urgency of this matter, it would be very much appreciated if you could report to me by March 15, 1978.

Postponement of hearing. The public hearing in connection with this investigation originally scheduled for February 2, 1978, in Washington, D.C., has been postponed to allow time for preparation of testimony with regard to these additional articles. The public hearing will begin instead at 9:30 a.m., e.s.t., Monday, February 27, 1978, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436.

Requests to appear at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington, D.C., not later than noon, Wednesday, February 22, 1978.

Notice of the investigation and hearings with respect to sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the TSUS was published in the FEDERAL REGISTER of November 30, 1977 (42 FR 60961), and notice of the times and places of the hearings was published in the FEDERAL REGISTER of December 28, 1977 (42 FR 64744).

By order of the Commission.

Issued: January 26, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-2693 Filed 1-30-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-39]

CERTAIN LUGGAGE PRODUCTS

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: January 25, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-2692 Filed 1-30-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-37]

CERTAIN SKATEBOARDS AND PLATFORMS THEREFOR

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued January 25, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-2691 Filed 1-30-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

UNITED STATES v. BEAUNIT II

Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Beaunit II* has been lodged with the United States District Court for the Eastern District of Tennessee. The decree requires the defendant to comply with the terms of its permit by January 1, 1979.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Beaunit II, et al.*, D.J. Ref. 90-5-1-1-630.

The consent decree may be examined at the office of the United States Attorney, Eastern District of Tennessee, 201 U.S. Post Office and Courthouse, 509 Main Street, Knoxville, Tenn. 37902, at the Region IV office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Ga. 30308, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-2593 Filed 1-30-78; 8:45 am]

[4410-01]

UNITED STATES v. HEYWOOD WAKEFIELD CO.

Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit and To Impose Penalties for Violations of That Permit

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Heywood Wakefield Co.* has been lodged with the United States District Court for the Eastern District of Tennessee. The decree requires the defendant to comply with the terms of its permit by April 17, 1978 and provides that the defendant will pay a penalty of $25,000 for its permit violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Heywood Wakefield*, D.J. Ref. 90-5-1-1-626.

The consent decree may be examined at the office of the United States Attorney, Eastern District of Tennessee, 201 U.S. Post Office and Courthouse, 509 Main Street, Knoxville, Tenn. 37902, at the Region IV office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Ga. 30308, and the Pollution control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. a copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-2594 Filed 1-30-78; 8:45 am]

[4410-01]

UNITED STATES v. HOMESTAKE MINING CO.

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on January 17, 1978 a proposed consent decree in *United States* v. *Homestake Mining Company* was lodged with the United States District Court for the District of South Dakota. The proposed decree requires the Homestake Mining Company to treat the effluent from its gold mining and milling operations. Specifically, the Company must construct and operate a tailings pond (best practicable treatment) and such additional treatment facilities as needed to remove cyanide, heavy metals and suspended solids in order to meet State Water Quality Standards. The Decree establishes penalties for failure to comply with the above requirements by certain dates.

The proposed consent decree may be examined at the office of the United States Attorney, 231 Federal Building and U.S. Courthouse, 400 S. Phillips Avenue, Sioux Falls, S. Dak. 57102; at the Region VIII Office of the Environmental Protection Agency, Enforcement Division, 1860 Lincoln Street, Denver, Colo. 80295; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Homestake Mining Company*, D.J. Ref. 90-5-1-1-874.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-2595 Filed 1-30-78; 8:45 am]

[4410-01]

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Announcement for the Unsolicited Research Program

1. *Purpose:* This Announcement describes the objectives of the FY 1978 Unsolicited Research Program (URP) sponsored by the National Institute of Law Enforcement and Criminal Justice (NILECJ). It also provides guidance on the application requirements and selection process for the program.

2. *Scope:* The provisions of this Announcement apply to all unsolicited concept papers received by NILECJ postmarked between January 1, 1978 and midnight March 31, 1978.

3. *Background:* The basic mission of NILECJ is threefold:

(a) To design and sponsor research on crime prevention and control and criminal justice operations to expand knowledge and improve capabilities;

(b) To assess the results of Institute-sponsored research and to evaluate criminal justice projects at the national, state and local level; and,

(c) To identify, validate and disseminate research findings of criminal justice projects and practices.

Most research funded by NILECJ is the result of solicited grant applications or responses to Requests for Proposals. The topics are selected after a comprehensive and lengthy planning process involving NILECJ staff, other LEAA program specialists and criminal justice researchers and practitioners outside of LEAA. However, NILECJ is also interested in funding

other research and development projects which it has not initiated, but which will complement and provide additional dimensions to its planned program and involve the research community more directly.

4. *Program goals:* The specific goal of this program is to fund a limited number of unsolicited proposals that address significant research issues pertaining to the adult criminal justice system. NILECJ is particularly interested in funding proposals of the following types:

(a) Small individual research projects for which there are few alternative funding mechanisms;

(b) Research projects with innovative approaches to criminal justice problems;

(c) Basic or theoretical research on interdisciplinary subject areas that may be relevant to criminal justice;

(d) Exploratory studies in criminal justice areas in which there has been little previous work;

(e) Research not currently identified as priority areas in NILECJ's Program Plan; and,

(f) Research within priority areas of NILECJ's Program Plan but which take alternative, innovative approaches to the priority areas.

5. *Eligibility:* (a) Eligible applicants include: universities, criminal justice agencies, and other not-for-profit and non-profit research organizations.

(b) Projects must address law enforcement or ciminal justice research issues which have national implications.

6. *Funding cycles:* During FY 1978, there will be two (2) complete Funding Cycles. All concept papers postmarked between March 30, 1977 and December 31, 1977 have been considered for funding during Cycle No. 1. All papers postmarked after midnight December 31, 1977 will be considered for funding during Cycle No. 2.

7. *Level of funding:* Approximately $750,000 has been allocated for the URP for FY 1978. Therefore, approximately $375,000 will be available for this funding cycle.

The normal range of funding for each grant will be from $10,000 to $150,000 for research of up to two years duration.

8. *Application requirements and procedures:* (a) Applicants should submit concept papers of approximately 10 double-spaced type written pages in length which include points 1-4 below:

(1) A clear, concise statement of the problem area and hypotheses or questions of interest for exploration.

(2) A brief statement of the design and methodology for conducting the study (i.e., What data will be collected? What measures will be used? What data sources will be employed? At what points in time will the data be collected? By whom?).

(3) A brief assessment of the time frame required to complete the study.

(4) A description of what the final and interim products will consist of and the audience(s) they will address, (i.e., researchers? practitioners? desision-makers?).

(b) In addition, applicants must submit the following information:

(1) A general estimate of the costs for conducting the study. Cost considerations should include the percentage of time the Principal Investigator(s) will devote to the project.

(2) A description of the required qualifications for project personnel. Resumes for the Principal Investigator(s) must be included.

(3) A description of the organization and management plan to complete the project.

(c) Eight (8) copies of the concept paper must be submitted and should be postmarked no later than midnight March 31, 1978.

9. *Selection process:* (a) Applicants will receive a letter acknowledging receipt of the concept paper.

(b) *Preliminary Internal Review:* The Unsolicited Research Program Committee will conduct a preliminary review in April 1978 to screen out those concept papers which are not appropriate for Institute funding. Below is a list of criteria that will be used in making this determination:

(1) The major goal of the program is to fund research pertaining to the adult criminal justice system. Thus the following types of projects will not be considered:

(i) The development of bibliographies; (ii) refinement of complete research for publication purposes; (iii) workshops, conferences; (iv) training programs or the development of training manuals; (vi) research or programs geared exclusively to juvenile justice; and (vii) support of action programs rather than research or evaluation.

(2) The proposed project must be primarily a research effort.

(3) The proposed project must not clearly duplicate current NILECJ research.

(4) Emphasis will be placed on research of the type described in section No. 4.

(c) *Review Panels:* (1) In April 1978, panels shall be convened for 1-2 days in Washington, D.C., to review the papers which have passed the initial screening.

(2) *Criteria for Review of Concept Papers:* Concept papers will be reviewed according to the following criteria:

(i) *Significance of the Research Problem:* The questions to be addressed or hypotheses to be explored and their relationship to significant issues currently confronting the criminal justice community.

(ii) *Conceptualization of the Problem:* Demonstration of the applicant's firm grasp of the issues underlying the problem area including ongoing and past relevant research.

(iii) *Soundness of Research Design and Methodology:* Provision of a clear, complete and precise description of the design and methodology for the proposed study.

(iv) *Potential Impact or Utility for Further Research or Program Development:* The usefulness of the expected final products to administrators, practitioners and researchers in the criminal justice field.

(v) *Qualifications of the Applicant:* The competence of the research team, its experience in conducting research in the criminal justice area, the appropriateness of the proposed combination of skills and the quality and specificity of the organization and management plan to accomplish the proposed project.

(vi) *Costs:* The reasonableness of cost estimates and personnel allocations.

Based upon the reviews of panel members, recommendations will be made through the Director of the Office of Research Programs to the Director of the National Institute as to which paper(s), if any, should be expanded into a full proposal(s). However, the decision to request a formal proposal should not be interpreted as a commitment by the Institute to sponsor the project. Final decisions on grant awards are made by the Administrator of LEAA. Applicants will be notified by June 15, 1978 as to whether or not a full proposal will be requested.

Following submission to the appropriate Division or Office within MILECJ formal proposals will undergo a review process similar to that for concept papers. All grant awards will be made by September 30, 1978.

Applicants must submit eight (8) copies of concept papers to:

Unsolicited Research Program, Office of Research Programs, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531

Address all inquiries to:

Phyllis Jo Baunach, Ph. D, Chairperson, Unsolicited Research Program, Room 860, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3911.

BLAIR EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-2592 Filed 1-30-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

ECONOMIC STIMULUS PACKAGE ALLOCATIONS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

Reallocation for 1977 and 1978

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists reallocation of funds under title VI of the Comprehensive Employment and Training Act. The purpose of this notice is to advise all interested parties of this reallocation of funds.

FOR FURTHER INFORMATION CONTACT:

Roberts T. Jones, Director, Office of Community Employment Development Programs, Room 5402, 601 D. Street NW., Washington, D.C. 20213, telephone 202-376-6366.

SUPPLEMENTARY INFORMATION: The Secretary of Labor is authorized to reallocate funds in accordance with the provisions of section 606 of Pub. L. 93-567 and pursuant to the regulations at 29 CFR 99.73.

Section 606 of the CETA provides that:

> The Secretary is authorized to make such reallocation as he deems appropriate of any amount of any allocation under this title to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be allocated only if the Secretary has provided thirty days' advance notice to the prime sponsor for such area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during which period of time, the Secretary shall notify the Governor and the affected prime sponsors of any decisions to reallocate funds, and shall publish any such decisions in the FEDERAL REGISTER. any such funds shall be reallocated to any areas within the same State.

Prime sponsors under title VI had been previously notified that failure to achieve at least 70 percent of the minimum planned net increase by September 30, 1977, would result in a determination by the Secretary that they were not able to use the funds within a reasonable period of time. They were notified that this determination would result in the reallocation of title VI funds. DuPage County, Ill., was performing below this level on September 30, 1977, and was notified by letter in mid October that if performance did not improve funds would be reallocated. It has been determined by the Secretary that DuPage County was not able to use all of its funds within a reasonable period of time. Therefore, the Secretary is reallocating funds in accordance with the authority of section 606.

The following list contains this reallocation:

REGION V—ILLINOIS

	Amount
From: DuPage County	$1,000,000
To:	
Madison County	166,824
Rock Island	51,230
LaSalle	36,754
Shawnee Consortium	49,216
BOS Illinois	695,976

Signed in Washington, D.C. this 24th of January 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-2648 Filed 1-30-78; 8:45 am]

[4510-30]

FARMWORKER ECONOMIC STIMULUS PROGRAMS

Allocation of Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the plans of the Employment and Training Administration for allocating funds for the farmworker economic stimulus program and the availability of "Solicitation for Grant Applications."

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Pursuant to the Economic Stimulus Appropriation Act of 1977, the Office of Farmworker Programs of the Department of Labor announces two initiatives under the farmworker economic stimulus program (ESP) to support efforts to improve the unemployment and underemployment problems facing seasonal farmworkers. The two categories of activity to be funded at this time are: (1) Residential skill training, and (2) employment and training coordinated with rural economic development activities. All potential applicants are advised that this is the second solicitation for these initiatives under the farmworker ESP.

The ESP initiatives may be operated by private nonprofit organizations, prime sponsors under Title I of CETA, and other public agencies; technical and vocational institutes, and other training centers, including Job Corps, may operate residential skill training. However, current recipients of farmworker ESP funds resultant from the first solicitation of July 20, 1977, for these two initiatives will not be considered for funding pursuant to this announcement.

The above eligible applicants are herein invited to submit innovative proposals in response to a competitive solicitation for grant award (SGA) announcement made by the Office of Farmworker Programs (OFP). The SGA will contain detailed information about each of the new initiatives and all information and materials necessary for submission of proposals.

SGAs will be available on or about February 6, 1978, for the two program categories. The SGA guidelines for both initiatives will be sent to eligible applicants on request. Telephone requests will not be honored. Requestors should furnish two self-addressed gummed labels with the written request for SGA.

Proposals in response to the SGA must be received by the Department at the above address by March 6, 1978. Review panels will be convened in March with grant contract signing beginning early April 1978. In order for proposals to be accepted by the Department, they must be either received at the above address by 4:45 p.m. e.s.t. or registered with the postal service on March 6, 1978. The Department will be absolutely precluded from accepting proposals not meeting this announced deadline. Offerors are encouraged to register the proposals with the Postal Service to avoid any problems which may occur with hand delivery.

Proposals will be evaluated on the basis of objective criteria by a panel composed of Federal representatives.

Signed in Washington, D.C., this 23d day of January 1978.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc. 78-2738 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2555]

BARO CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2555: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 3, 1977, in response to a worker petition received on October 28, 1977, which was filed on behalf of workers and former workers producing

shoe uppers at the Baro Corp., Haverhill, Mass.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59583). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Baro Corp., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Baro Corp. was established in Haverhill, Mass., in September of 1973. The firm produces shoe uppers on a contract basis for shoe manufacturers.

The Department's investigation revealed that the ratio of imports to domestic production for footwear uppers was less than one percent from 1972 through the first three-quarters of 1977. Imports of shoes which incorporate uppers of the same origin are not like or directly competitive with shoe uppers produced by the Baro Corp., Haverhill, Mass.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with shoe uppers produced at the Baro Corp., Haverhill, Mass., did not contribute importantly to the decline in sales or production or to the total or partial separation of workers at that firm as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2650 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2081]

BAMBERGER REINTHAL CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2081: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1977, in response to a worker petition received on May 19, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing knit men's and women's sweaters and headwear at the Cleveland, Ohio, plant of the Bamberger Reinthal Co.

The notice of investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Bamberger Reinthal Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment group of eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Cleveland, Ohio, plant of Bamberger Reinthal Co. increased 19.5 percent in 1976 compared to 1975. Employment decreased 15.3 percent in the fourth quarter of 1976 compared to the same quarter of 1975. The plant ceased operations in March 1977 and all workers were layed off. Workers were not separately identifiable by products lines.

SALES OF PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of men's and women's knit acrylic sweaters, in terms of quantity increased 44.6 percent in 1976 compared to 1975 and decreased 11.1 percent in the fourth quarter of 1976 compared to the same period in 1975. The plant was permanently closed in March 1977.

Sales of men's and women's knit headwear decreased 4.5 percent in 1976 compared to 1975. Sales decreased 7.7 percent and 17.6 percent, respectively, in the third and fourth quarter of 1976 compared to the same quarters of 1975. All production ceased in March 1977 when the plant was permanently closed.

INCREASED IMPORTS

Imports of men's and boys' sweaters, knit cardigans, and pullovers increased from 19.5 million units in 1972 to 26.2 million units in 1973 and decreased to 23.3 and 20.4 million units in 1974 and 1975, respectively, before increasing to 26.5 million units in 1976. Imports increased to 2.8 million units in the first quarter of 1977 compared to 2.7 million in the same quarter of 1976. The ratios of imports to domestic production increased from 35.8 percent in 1972 to 41.4 percent in 1973, decreased 36.5 percent in 1974 and increased slightly to 36.6 percent in 1975 before increasing to 67.8 percent in 1976.

Imports of women's, misses' and children's sweaters decreased 8,087,000 dozen in 1972 to 7,990,000 dozen in 1973, increased to 8,359,000 dozen in 1974 and increased to 8,965,000 dozen in 1975. Imports increased again by 7.2 percent in 9,613,000 dozen in 1976. The ratios of imports to domestic production decreased from 103.4 percent in 1972 to 94.2 percent in 1973. This ratio increased each year from 104.9 percent in 1974 to 122.3 percent in 1976.

Imports of men's, boys', women's, misses', and juniors' knit headwear decreased from 436,000 dozen in 1972 to 300,000 dozen in 1973 before increasing to 325,000 dozen in 1974. Imports remained unchanged in 1975 compared to 1974 and then increased to 586,000 dozen in 1976. The ratios of imports to domestic production decreased each year from 38.6 percent in 1972 to 16.4 percent in 1974 and then increased each year to 29.4 percent in 1976.

CONTRIBUTED IMPORTANTLY

One of the customers surveyed indicated he had reduced purchases of sweaters for Bamberger Reinthal while increasing purchases from foreign sources. Customers indicated that there was an import influence affecting marketing of sweaters in this country because lower labor cost countries could readily penetrate domestic markets with lower cost garments.

The import penetration between 1972 and 1976 for men's and boys' sweaters was in a range from 35.8 percent to 67.8 percent. The ratios for women's, misses', and children's sweaters was in the range from 94.2 percent to 122.3 percent. The import penetration ratio for men's, boys', women's, misses', and juniors' knit headwear was in a range from 16.4 percent to 38.6 percent.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with men's and women's knit sweaters produced at the Cleveland, Ohio, plant of the Bamberger Reinthal Co. contributed importantly to the decline in sales and or production and to the total or partial separations of the workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Cleveland, Ohio, plant of Bamberger Reinthal Co. who became totally or partially separated from employment on or after August 21, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2651 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2524]

BEISINGER INDUSTRIES CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2524: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 31, 1977, in response to a worker petition received on October 27, 1977, which was filed on behalf of workers and former workers producing rubber heels and soles and a hard rubber molding process at Beisinger Industries Corp., Taunton, Mass.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Beisinger Industries Corp., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to any of the other criteria have been met, criterion (4) has not been met.

Beisinger Industries Corp., Taunton, Mass. was incorporated in Delaware, August 22, 1960. Workers produce rubber soling products and plastic and rubber molded shoe components.

Evidence developed in the department's investigation reveals that there are no separately identifiable imports of rubber soling products and plastic and rubber molded shoe components. The products are not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of footwear components have been negligible in the 1970's.

Imports of shoes which incorporate shoe components of the same origin are not like or directly competitive with shoe products produced by workers at Beisinger Industries Corp. within the meaning of section 222(3) of the Trade Act of 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with those produced by workers at Beisinger Industries Corp., Taunton, Mass., did not contribute importantly to the total or partial separation of the workers at that plant as required for certification in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2652 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2601]

BINY CLOTHING, INC.

Negative Determination Regarding Eligibility, To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2601: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 14, 1977 in response to a worker petition received on October 27, 1977, which was filed by three workers on behalf of workers and former workers engaged in the retailing of men's clothing at BINY Clothing, Inc., Hicksville, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of BINY Clothing, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

BINY Clothing, Inc. Hicksville, N.Y. operates a chain of clothing stores and is engaged in the retailing of men's clothing. BINY Clothing, Inc. is not involved in the production of any product(s) and all of its employees are engaged in the retailing of men's clothing.

BINY Clothing, Inc. does not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program; see Notice of Determination in Pan American World Airways, Inc. (TA—W-153, 40 FR 54639). BINY Clothing, Inc. performs a service, the retailing of men's clothing.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by BINY Clothing, Inc., Hicksville, N.Y., are not "articles" within the meaning of section 222(3) of the Trade Act of 1974. Therefore, the petition for trade adjustment assistance is denied.

Signed at Washington, D.C., this 18th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 78-2653 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2139]

CARTER RUBBER CO., DARLING STREET PLANT

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2139: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 13, 1977, in response to a worker petition received on June 9, 1977, which was filed by three workers on behalf of workers and former workers producing men's house slippers, men's casual shoes, and children's sneakers at the Darling Street plant of Carter Rubber Co. in Wilkes-Barre, Pa.

The notice of investigation was published in the FEDERAL REGISTER on June 24, 1977 (42 FR 32328). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carter Rubber Co., its customers, the U.S. Department of Commerce, the Boot and Shoe Worker's Union, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that workers at the Darling Street plant of Carter Rubber are used interchangeably in the production of men's casual shoes, men's slippers and children's sneakers, and therefore cannot be identified by product line. The firm produces only on order; therefore, sales and production are equivalent. total production at the Darling Street plant increased 20.9 percent in quantity from 1975 to 1976 and increased 6.2 percent in the first seven months of 1977 compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production at the Darling Street plant of Carter Rubber Co., in Wilkes-Barre, Pa., have decreased absolutely as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2654 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-1893]

CATALINA DRESS INC.

Negative Deterination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1893: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 24, 1977, in response to a worker petition received on March 24, 1977, which was filed on behalf of workers and former workers of the Ashley, Pa. plant of Catalina Dress, Inc., by the International Ladies Garment Workers' Union.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Catalina Dress, Inc., the manufacturer for which Catalina works, that manufacturer's customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Catalina Dress, Inc., is a contractor that makes women's and misses' dresses for one manufacturer. This manufacturer does not import dresses or use foreign contractors. This manufacturer's sales increased in 1976 compared to 1975. A survey of this manufacturer's customers revealed that the customers who reduced purchases from this manufacturer and purchased imports in the first three quarters of 1977 purchased less than 2 percent of their dresses from imported sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' dresses produced at the Ashley, Pa., plant of Catalina Dress, Inc. did not contribute importantly to the decline in sales or production and to the total or partial separation of the workers at that plant.

Signed at Washington, D.C., this 23rd day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2655 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-1894]

CHARISE FASHIONS

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1894: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 24, 1977, in response to a worker petition received on March 24, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses at Charise Fashions, Wilkes-Barre, Pa. During the investigation it was determined that pantsuits and jumpsuits were also produced.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Charise Fashions, its manufacturers, The National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

Evidence developed during the Department's investigation revealed that Charise Fashions performs contract work on women's and misses' dresses, pantsuits, jumpsuits and gowns for several apparel manufacturers. Apparel manufacturers representing a substantial proportion of Charise Fashions' contract work in 1976 were surveyed by the Department. The survey revealed that sales of these manufacturers had increased in 1976 compared to 1975. Contract work with other domestic firms by these manufacturers increased in 1976 compared to 1975. The one manufacturer who purchased imports indicated that imports were less than 1 percent of total purchases. None of the manufacturers who were surveyed utilized foreign contractors.

The impact of imports in the domestic market for women's and misses' dresses has been small and did not change appreciably from 1975 to 1976 or in the first half of 1977 compared to the first half of 1976. From 1975 to 1976 the ratio of imports to domestic production remained constant at 4.5 percent while imports increased by only 2.2 percent in absolute terms. Imports fell by 12.4 percent in the first half of 1977 compared to the first half of 1976.

The ratio of imports to domestic production declined from 12.2 percent in 1974 to 11.6 percent in 1976. Imports decreased 5.6 percent in the first half of 1977 compared to the first half of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with women's and misses' dresses, gowns, pantsuits and jumpsuits produced at Charise Fashions, Wilkes-Barre, Pa., have not contributed importantly to the decline in sales or production of the firm and to the total or partial separations of workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR DOC.78-2656 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2561]

C. V. RUBIN LEATHER, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2561: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 3, 1977 in response to a worker petition received on October 28, 1977 which was filed on behalf of workers and former workers producing insoles for shoes at C. V. Rubin Leather, Inc., Brockton, Mass.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59583). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of C. V. Rubin Leather, Inc., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

C. V. Rubin Leather, Inc. was incorporated in Massachusetts in 1963. The firm operates a single plant located in Brockton, Mass. Workers at C. V. Rubin Leather, Inc. cut insoles for shoes.

Evidence developed in the Department's investigation reveals that there are no separately identifiable imports of insoles. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of footwear components have been negligible in the 1970's.

Imports of shoes which incorporate insoles of the same origin are not like or directly competitive with shoe insoles produced by workers at C. V. Rubin Leather, Inc., Brockton, Mass. within the meaning of Section 222 (3) of the Trade Act of 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with those produced by workers at C. V. Rubin Leather, Inc., Brockton, Mass. have not contributed importantly to the decline in sales or production of the firm or to the total or partial separation of workers at that firm as required in Section 222 of the Trade Act of 1974. The petition is therefore denied.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 78-2657 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2513]

DAISY FOOTWEAR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2513: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 27, 1977 in response to a worker petition received on October 25, 1977, which was filed on behalf of workers and former workers producing canvas footwear at Daisy Footwear, Inc., Patterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977, (42 FR 59132). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Daisy Footwear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at Daisy declined 18 percent in 1976 from 1975 and 14 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Except for maintenance and security, employment ceased at Daisy when the plant closed in October 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales, in value, by Daisy declined 19 percent in 1975 from 1974, 4 percent in 1976 from 1975 and 22 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, by Daisy declined 23 percent in 1975 from 1974, 8 percent in 1976 from 1975 and 18 percent in the first 9 months of 1977 compared to the like period of 1976.

Sales and production ceased when Daisy closed in October 1977.

INCREASED IMPORTS

Imports of rubber/canvas footwear increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and decreased from 1974 to 1975. Imports increased 35 percent from 1975 to 1976 and decreased 15 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 17.6 percent and 15.0 percent, respectively, in 1975 to 26.6 percent and 21.0 percent, respectively in 1976 and 29.2 percent and 22.6 percent, respectively, in the first 9 months of 1977.

CONTRIBUTED IMPORTANTLY

Customers of Daisy Footwear, Inc., who were surveyed indicated that they had decreased purchases of canvas footwear from Daisy and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas footwear produced by Daisy Footwear, Inc., Paterson, N.J., contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Daisy Footwear, Inc., Paterson, N.J. who became totally or partially separated from employment on or after April 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2658 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-1902]

DOROTHY FASHIONS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1902: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977 in response to a worker petition received on March 24, 1977 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing dresses at Dorothy Fashions, Inc., Swoyerville, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dorothy Fashion, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

Evidence developed during the Department's investigation revealed that Dorothy Fashions performed 100 percent and 50 percent of its contract work in 1976 and 1977, respectively, for one manufacturer. This manufacturer is a large, diversified clothing firm that produces several seasonal lines with over a hundred styles. This manufacturer contracts out nearly all of its dressmaking operations to independent domestic firms such as Dorothy Fashions. Because of the wide range of styles and frequent seasonal lines, the volume of work given to any one contractor fluctuates in accordance with the specific mix of fashions required by the manufacturer at that time.

The impact of imports in the domestic market for women's and misses' dresses has been small and did not change appreciably from 1975 to 1976 or in the first half of 1977 compared to the first half of 1976. From 1975 to 1976 the ratio of imports to domestic production remained constant at 4.5 percent while imports increased by only 2.2 percent in absolute terms. Imports fell by 12.4 percent in the first half of 1977 compared to the first half of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that imports of articles like or directly competitive with dresses produced by Dorothy Fashions, Swoyerville, Pa. have not contributed importantly to the decline in sales or production and to the total or partial separations of workers of that firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2659 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2515]

DOVE PROCESSING COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2515: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 27, 1977, in response to a worker petition received on October 25, 1977, which was filed by three workers on behalf of workers and former workers engaged in the printing of fabrics at the Dove Processing Co., Inc., Hawthorne, N.J.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59132). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Dove Processing Co., Inc., its customers, the National Cotton Council, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that without regard to any of the other criteria, criterion four was not met.

The Dove Processing Co. is a commission fabric printer. Manufacturers send unfinished material to Dove Processing. Dove Processing prints the fabric and returns the finished fabric to the customers. Printing is the specialized dyeing of restricted areas on fabrics.

Customers representing approximately fifty percent of sales in 1976 were surveyed by the Department concerning their purchases of finished fabric. None of these customers purchased imported finished fabric or contracted for finishing processes offshore.

Inasmuch as all types of finished fabric, flocked, dyed, and printed, are generally interchangeable and substitutable in their end uses, all types of finished fabric may be considered like or directly competitive with the fabric printed at the Dove Processing Co.

Aggregate imports of finished fabric (including dyed, printed, and flocked), in absolute terms, declined from 1972 to 1973, declined from 1973 to 1974, and increased from 1974 to 1975. Imports increased 20.2 percent from 1975 to 1976.

Imports of finished fabric declined in each quarter of 1976 when compared to the previous quarter. Imports declined 37.9 percent in the first six months of 1977 compared to the like period of 1976.

Since 1973 the ratio of imports to domestic production has not exceeded 2.0 percent.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabric printed at the Dove Processing Co., Inc., Hawthorne, N.J., did not contribute importantly to the decline in sales or production and to the total or partial separations of workers at that firm as required in section 222 of the Trade Act of 1974. Therefore, the petition is denied.

Signed at Washington, D.C. this 18th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2660 Filed 1-30-78; 8:45 am]

[TA-W-2238]

EASTSIDE SPORTSWEAR, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2238: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 2, 1977, in response to a worker petition received on August 1, 1977, which was filed on behalf of workers and former workers producing ladies' coats at Eastside Sportswear, Inc., Paterson, N.J.

The notice of Investigation was published in the FEDERAL REGISTER on August 19, 1977 (42 FR 41934). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by Eastside Sportswear, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (4) has not been met.

Eastside Sportswear, Inc., Paterson, N.J., was a contractor engaged in the stitching of ladies' coats for clothing manufacturers. Eastside ceased production in March 1977.

A survey of Eastside's customers who accounted for approximately 90 percent of the contract work by Eastside revealed that dollar sales increased from 1975 to 1976 and in the first three quarters of 1977 when compared to the like period of 1976. Cus-

tomers surveyed do not import finished ladies' coats and do not contract with foreign firms.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with ladies' coats produced at Eastside Sportswear, Inc., Paterson, N.J., did not contribute importantly to the decline in sales and to the total or partial separations of workers at that firm, as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2661 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2352]

E. G. JOHNSON CO.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2352: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1977 in response to a worker petition received on September 2, 1977, which was filed on behalf of workers and former workers producing CB Radios at the Waseka, Minn. Plant of E. F. Johnson Co.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E. F. Johnson Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that for CB Radios, all of the above criteria have been met. With respect to Land Mobile Radios, also produced at Waseka, criterion (2) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Waseka plant increased 4 percent in 1975 from 1974 and 26 percent in 1976 from 1975. Average employment declined 11 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 30 percent in the first 9 months of 1977 compared to the first 9 months of 1976. Workers at the plant are not separately identifiable by product.

SALES OR PRODUCTION, OR BOTH, HAVE DECEASED ABSOLUTELY

Sales, in value, of CB Radios by E. F. Johnson Co. increased 109 percent in 1975 from 1974 and 6 percent in 1976 from 1975. Sales declined in the fourth quarter of 1976 compared to the fourth quarter of 1975. Sales declined 67 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, of CB Radios at the Waseka plant declined 39 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 63 percent in the first 9 months of 1977 compared to the same period of 1976.

Sales, in value, of Land Mobile Radios by E. F. Johnson Co. increased 10 percent in 1975 from 1974, 48 percent in 1976 from 1975 and 29 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, of Land Mobile Radios at the Waseka plant decreased 15 percent in 1975 from 1974, increased 54 percent in 1976 from 1975 and increased 24 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

INCREASED IMPORTS

Imports of Mobile CB Transceivers increased in value, in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 348 percent from 1975 to 1976 and decreased 28 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 94.6 percent and 48.6 percent, respectively, in 1975 to 394.8 percent and 79.8 percent, respectively in 1976, and to 500.8 percent and 83.4 percent, respectively, in the first 9 months of 1977.

Imports of CB Base Station Units increased in value, in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 98 percent from 1975 to 1976 and decreased 13 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 252.5 percent and 71.6 percent, respectively, in 1975 to 465.1 percent and 82.3 percent, respectively in 1976, and 474.7 percent and 82.6 percent, respectively, in the first 9 months of 1977.

CONTRIBUTED IMPORTANTLY

Customers of E. F. Johnson who were surveyed have decreased purchases of CB Radios from Johnson and increased purchases from foreign sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with CB Radios produced at the Waseka, Minn. plant of E. F. Johnson Co. contributed importantly to the decline in sales and production to the total or partial separations of workers at that plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of CB Radios at the Waseka, Minn. plant of E. F. Johnson Co. who became totally or partially separated from employment on or after September 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that sales and production of Land Mobile Radios did not decrease as required for certification under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2662 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2353]

E. F. JOHNSON CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of

TA-W-2353: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1977, in response to a worker petition received on September 2, 1977 which was filed on behalf of workers and former workers producing CB radios at the Clear Lake, Iowa plant of E. F. Johnson Co. (The petition incorrectly identified the company as Johnson American, Inc.) The petition was expanded by the Labor Department to include workers at the Garner, Iowa, and Mason City, Iowa plants of E. F. Johnson Co.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977, (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E. F. Johnson Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Clear Lake and Mason City plants (employment records together) increased 260 percent in 1975 from 1974 and 92 percent in 1976 from 1975. Employment declined 16 percent in the fourth quarter of 1976 compared to the third quarter of 1976 and 37 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The Mason City plant was closed in March 1977. E. F. Johnson Co. has announced plans to close the Clear Lake Plant in the first quarter of 1978.

Average employment of production workers at the Garner plant decreased 32 percent in the fourth quarter of 1976 compared to the third quarter of 1976 and 51 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The Garner plant closed in September 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales, in value, of CB radios by E. F. Johnson Co. increased 109 percent in 1975 from 1974 and 6 percent in 1976 from 1975. Sales declined in the fourth quarter of 1976 compared to the fourth quarter of 1975. Sales declined 67 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, of CB radios at the Clear Lake and Mason City, Iowa plants declined 52 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 61 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The Mason City plant was closed in March 1977 and the Clear Lake Plant is to be closed in the first quarter of 1978.

Production, in quantity, of crystals at the Garner, Iowa plant (which were used in the production of CB radios at other Johnson plants) declined 18 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 80 percent in the first 9 months of 1977 compared to the same period of 1976. The plant closed in September 1977.

INCREASED IMPORTS

Imports of mobile CB transceivers increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 348 percent from 1975 to 1976 and decreased 28 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to dometic production and consumption increased from 94.6 percent and 48.6 percent, respectively, in 1975 to 394.8 percent and 79.8 percent, respectively, in 1976, and to 500.8 percent and 83.4 percent, respectively, in the first 9 months of 1977.

Imports of CB base stations units increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 98 percent from 1975 to 1976 and decreased 13 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 252.5 percent and 71.6 percent, respectively, in 1975 to 465.1 percent and 82.3 percent, respectively, in 1976, and 474.7 percent and 82.6 percent, respectively, in the first 9 months of 1977.

CONTRIBUTED IMPORTANTLY

Customers of E. F. Johnson Co. who were surveyed have decreased purchases of CB radios from Johnson and increased purchases from foreign sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with CB radios produced at the Clear Lake, Iowa; Mason City, Iowa; and Garner, Iowa plants of E. F. Johnson Co., contributed importantly to the total or partial separation of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

All workers at the Clear Lake, Iowa; Mason City, Iowa; and Garner, Iowa plants of E. F. Johnson Co. who became totally or partially separated from employment on or after September 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2663 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2794, 2795]

ERIE MINING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2794 and 2795: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 15, 1977 which was filed by the United Steel Workers of America on behalf of workers and former workers producing iron ore and iron ore pellets at the Hoyt Lakes, Minn. property of Erie Mining Co. and shipping iron ore pellets through the Taconite Harbor, Minn. shipping facilities of Erie Mining Co.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Erie Mining Co., its customers, the U.S. Department of Commerce, the U.S. International trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

United States imports of iron ore, pellets and sinter decreased from 46,743 thousand long tons in 1975 to 44,390 thousand long tons in 1976. During the first three quarters of 1977 imports decreased from the same period in 1976, from 32,950 thousand long tons to 26,470 thousand long tons.

The imports to domestic shipments ratio for iron ore, pellets and sinter decreased from 59.3 percent in 1975 to 55.5 percent in 1976. During the first three quarters of 1977, the ratio increased to 55.3 percent compared to 54.7 percent for the same period in 1976.

CONTRIBUTED IMPORTANTLY

Forty-five percent of the iron ore pellets produced by the Erie Mining Co. are shipped to a major customer of the firm. Imports of iron ore pellets by this customer increased in 1976 compared to 1975, and increased during the second and third quarters of 1977 compared to the preceding quarters.

Aggregate imports of iron ore pellets in 1976 and the first nine months of 1977 caused excessive accumulation of inventory throughout the steel industry. The increased inventory levels resulted from decreased demand for end use steel products in combination with the receipt of iron ore pellets from foreign source due to long term contract commitments.

Erie Mining Co.'s declines in production and sales of iron ore pellets in 1976 and in 1977 were a micro reflection of the problems industrywide. Decreased demand for end-use steel products, excessive inventory and increased imports of iron ore pellets by a major customer reduced the need for iron ore pellets produced by Erie Mining co. These factors were also reflected in a survey of other users of iron ore pellets who placed high emphasis on excessive inventory levels caused by the influx of imported iron ore pellets.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with iron ore pellets produced at Erie Mining Co., Hoyt Lakes, Minn. and shipped through its Taconite Harbor shipping facilities contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Erie Mining Co., Hoyt Lakes, Minn. and its Taconite Harbor, Minn. shipping facilities who became totally or partially separated from employment on or after December 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2664 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2419]

ESPERANZA PROPERTY OF DUVAL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2419: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Esperanza, Tucson, Ariz., Property of Duval Corp.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duval Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Department of the Interior, the American Metals Market, Metal Bulletin, Metal Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Esperanza Property increased in 1976 compared to 1975 and declined in the first nine months of 1977 compared to the same period in 1976. This decline is attributable to the decline in employment which took place in the third quarter of 1977 compared to the same quarter in 1976. Separations occurred from August 8, 1977, through September 18, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Property production of both copper concentrate and molybdenum ("moly") concentrate declined in the third quarter of 1977 compared to the same quarter in 1976. While separate production figures were provided for copper concentrate and molybdenum concentrate, the Esperanza Property never separated the two components, but shipped a copper-moly concentrate to other Duval facilities. Production of copper concentrate is integrated into Duval Corp.'s sales of refined copper. Production of molybdenum concentrate is integrated into the production and sales of molybdenum trioxide, sulfide, and ferromolybdenum by Duval.

INCREASED IMPORTS

U.S. Imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

U.S. imports of copper ore, concentrate, precipitates, and matte in-

creased each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Duval Corp. and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Duval's decision to lay off workers and reduce its mining operations was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing refined copper from Duval substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper-molybdenum concentrate produced at the Esperanza Property of Duval Corp. contributed importantly to the decline in production and to the total or partial separation of the workers at that property.

In accordance with the provisions of the Act, I make the following certification:

All workers at the Esperanza, Tucson, Ariz., Property of Duval Corp. who became totally or partially separated from employment on or after June 30, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2665 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2799]

HIBBING TACONITE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2799: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 21, 1977, in response to a worker petition received on December 15, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing iron ore and iron ore pellets at the Hibbing, Minn., property of Hibbing Taconite Co.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hibbing Taconite Co. and the United Steel Workers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Hibbing Taconite Co., located in Hibbing, Minn., operates an open pit taconite mine, as well as crushing, concentrating, and pelletizing facilities. The final product is iron ore pellets.

The Department's investigation revealed that the workers at Hibbing Taconite were on strike from August 1, 1977, through November 21, 1977, but were all recalled immediately upon settlement of the strike. There have been no involuntary separations, total or partial, from November 20, 1976, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that a significant number or proportion of workers at the Hibbing, Minn., property of Hibbing Taconite Co. have not become totally or partially separated as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2666 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-1998]

HIGHLANDER SPORTWEAR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1998: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 21, 1977, in response to a worker petition received on that date which was filed by the amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and women's leather, suede, and shearling coats at Highlander Sportswear, Inc., Newark, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23216). No public

hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Highlander Sportwear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

U.S. imports of leather coasts and jackets increased each year during the 1972-76 period. Imports increased 53 percent from 154.3 million dollars in 1975 to 236.6 million dollars in 1976. The value of imports amounted to 67.1 percent of the value of total domestic production in 1975 and 81.6 percent in 1976.

Leather wearing apparel is imported duty free into the United States under GSP regulations.

CONTRIBUTED IMPORTANTLY

The United States is the world's largest market for leather garments. Of this market, the greatest percentage of the increased domestic demand is accounted for by young customers seeking fashionable lower- and medium-priced leather goods of medium to high quality which have largely been supplied by foreign manufacturers. Highlander Sportwear produces medium and high quality costs.

Customers surveyed who decreased purchases from Highlander in 1976 and 1977 increased purchases from foreign sources during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with leather, suede, and shearling coasts produced at Highlander Sportswear, Inc., Newark, N.J., contriubted importantly to the decline in sale and to the total or partial separations of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Highlander Sportswear, Inc., Newark, N.J., who became totally or partially separated from employment on or after December 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2667 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2103]

INTERNATIONAL SILVER CO., FACTORY E

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2103: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 26, 1977, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless and silver holloware at Factory E of the International Silver Co., Meriden, Conn. During the course of the investigation it was determined that Factory E produces silver-plated, sterling-silver and pewter holloware.

The Notice of Investigation was published in the FEDERAL REGISTER on June 19, 1977 (42 FR 30938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Silver Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of silver-plated, sterling-silver and pewter holloware increased in 1976 compared to 1975 and in the first 6 months of 1977 compared to the same period of 1976. The ratio of imports to domestic production increased in 1976 compared to 1975 and ranged from 8.0 percent to 13.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

Company imports of silver/plated holloware, in value, increased in 1976 compared to 1975 and in the first 5 months of 1977 compared to the same period of 1976.

Customers of silver-plated, sterling-silver, and pewter holloware who were surveyed indicated that they had decreased purchases of holloware from International Silver and increased purchases of imported holloware.

The combined effect of increased prices for tin and silver on the international market, increased company imports and customers of International Silver increasing purchases of imported holloware resulted in layoffs at Factory E of the Meriden plant beginning in January 1977.

International Silver instituted cost saving measures as indicated by the labor turnover data which shows that separations were significantly greater than accessions in the first 5 months of 1977 compared to the same period of 1976. The average number of hours worked by the remaining workers decreased in the first 5 months of 1977 compared to the same period of 1976. The evidence further indicates there is a threat of continuing layoffs in the future.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with silver-plated, sterling-silver, and pewter holloware produced at the International Silver Company contributed importantly to the decline in sales or production and to the total or partial separations of the workers at Factory E of the Meriden Plant. In accordance with the provisions of the Act, I make the following certification:

All workers at factory E of the International Silver Co., Meriden, Conn., who became totally or partially separated from employment on or after January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2668 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2323]

LEADER DYEING AND FINISHING CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2323: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 12, 1977, in response to a worker petition received on September 2, 1977, which was filed on behalf of

workers and former workers plain dyeing fabric at the Leader Dyeing and Finishing Co., Inc., Paterson, N.J.

The notice of investigation was published in thge FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Leader Dyeing and Finishing Co., Inc., fabric converters who are customers of Leader Dyeing and Finishing Co., Inc., customers of the fabric converters, the National Cotton Council of America, the U.S. Department of commerce, the U.S. International Trade commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Leader Dyeing and Finishing Co., Inc., located in Paterson, N.J., dyes greige cloth for converters on a contract basis.

Evidence developed during the course of the investigation revealed that the importation of articles like or directly competitive with the finished fabric produced at Leader Dyeing and Finishing Co., Inc., did not contribute importantly to the decrease in production and production-related employment at that firm.

The department's investigation of several commission weavers, printers and dyers examined the allegations that increased imports of apparel adversely affected production and employment in these industries. Converters, who sell finished fabric to apparel manufacturers, agree that imports of apparel have been a factor in reduced business with the commission weavers, printers and dyers.

In discussing the term "like or directly competitive" as used in the Trade Act of 1974, the House Ways and Means Committee, noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America* v. *Bedell*, et al., 506 F. 2d 174, (1974). (S. Rept. 93-1298, 93rd Cong., 2d Sess., 1974, p. 122.) In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters.

Similarly, imported wearing apparel cannot be considered to be like or directly competitive with finished or unfinished fabric. Imports of fabric must be considered in determining import injury to workers producing printed or finished fabric.

Inasmuch as all types of unfinished fabric are generally interchangeable and substitutable in their end uses, all types of unfinished fabric must be considered like or directly competitive with the fabric dyed at Leader Dyeing and Finishing Co.

Aggregate imports of finished fabric decreased 37.9 percent in the first half of 1977 compared to the first half of 1976. Imports of finished fabric declined in each quarter of 1976 when compared to the respective previous quarters. The ratios of imports to domestic production and consumption have not risen above 2.0 percent, respectively from 1973 to 1977.

Leader dyes greige cloth for converters. Converters, representing approximately 44.0 percent of Leader's annual 1976 sales, were surveyed by the Department. Respondants to the survey either did not purchase imported finished fabrics or if they purchased imports, did not increase their purchases of imported fabrics with the exception of one converter who did increase his purchases of imported finished fabrics. That converter's import purchases represented less than one percent of Leader's total sales in 1976.

Additionally, manufacturers who were customers of the converters were surveyed. The manufacturers did not purchase imported finished fabric with the exception of one manufacturer for whom imported finished fabric accounted for less than one percent of his total purchases.

Converters and manufacturers cited the increased importation of finished apparel as a major factor behind the decline in their business with Leader Dyeing and Finishing Co. As stated above, imports of finished apparel are not like or directly competitive with finished fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with the finished fabric produced at Leader Dyeing and finishing Co., Inc., Paterson, N.J., did not contribute importantly to the decline in sales or production of the firm or the total or partial separation of workers at the firm as required for certification by section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2669 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2216]

MARA MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2216: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 19, 1977, in response to a worker petition received on July 18, 1977, which was filed by three workers on behalf of workers and former workers producing blouses and pantsuits at Mara Manufacturing Co., Nanticoke, Pa.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mara Manufacturing Co. Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification to eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actually or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales

or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the Department's investigation revealed that criterion (4) has not been met.

CONTRIBUTED IMPORTANTLY

Manufacturers with whom Mara Manufacturing Co., contracted the majority of its orders indicated their sales had either remained the same or increased in 1975 and 1976. These manufacturers increased their contract work with other domestic contractors and did not import.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with blouses and pantsuits produced at the Mara Manufacturing Company have not contributed importantly to the decline in sales or production of the firm or to the total or partial separation of workers at that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2670 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2480]

MINERAL PARK PROPERTY OF DUVAL CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2480: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1977, in response to a worker petition received on October 13, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Mineral Park, Kingman, Arizona Property of Duval Corp.

The notice of investigation was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duval Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Department of the Interior, the America Metals Market, Metal Bulletin, Metal Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally of partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to workers producing copper concentrate, and that the third criterion has not been met with respect to workers producing molybdenum concentrate.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers declined in 1976 compared to 1975; increased in the first nine months of 1977 compared to the same period in 1976. Employment declined in the third quarter of 1977 compared to the same period in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Property production of copper concentrate and of molybdenum concentrate declined in the third quarter of 1977 compared to the same quarter in 1976. Production of copper concentrate is integrated into Duval Corporations's sales of refined copper. Production of molybdenum concentrate is integrated into the production and sale of molybdenum trioxide, sulfide and ferromolybdenum.

INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

U.S. imports of copper ore, concentrate, precipitates and matte increased each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976. Imports of molybdenum declined from 1.623 million pounds in the first nine months of 1976 to 1.426 million pounds in the same period of 1977.

The ratio of imports to domestic production increased from 0.34 percent in 1972 to 0.40 percent in 1973, declined to 0.14 percent in 1974, increased to 2.42 percent in 1975 and declined to 1.86 percent in 1976.

Industry sources indicated that imports of molybdenum in stages other than concentrate, are negligible.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Duval Corporation and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At

the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Duval's decision to lay off workers and reduce its mining operations was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Duval substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

With respect to molybdenum ("moly") production, Duval and other producers have experienced increasing domestic prices for moly in the January to September 1977 period. In order to take advantage of the high prices for moly, Duval is planning to bypass ore with low moly content in order to mine ores with higher levels of moly per ton extracted. The current sellers market for molybdenum has allowed Duval to maintain a higher level of production and employment at its three facilities than would have been possible were moly an insignificant percentage of Duval's sales.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper concentrate produced at the Mineral Park Property of Duval Corp., contributed importantly to the decline in production and to the total or partial separation of the workers at that property. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the mining of copper and the production of copper concentrate at the Mineral Park, Kingman, Arizona Property of Duval Corp., who became totally or partially separated from employment on or after June 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with molybdenum concentrate, produced at the Mineral Park, Kingman, Arizona Property of Duval Corp., did not increase as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research

[FR Doc. 78-2671 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2105]

MISS MAYFAIR ORIGINALS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2105: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 26, 1977 in response to a worker petition received on May 25, 1977 which was filed on behalf of workers and former workers producing ladies' coats and jackets at the New York, N.Y. plant of the Miss Mayfair Originals, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Miss Mayfair Originals, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Increased Imports

United States imports of women's, misses' and children's coats and jackets increased in 1975 to 1,517 thousand dozen, increased in 1976 to 2,252 thousand dozen, and increased to 590 thousand dozen during the first three months of 1977 compared to 506 thousand dozen for the same period in 1976.

The imports to domestic production ratio for women's, misses' and children's coats and jackets increased in 1975 to 35.4 percent, and increased in 1976 to 52.2 percent.

Contributed Importantly

The Department conducted a survey of some of the customers of Miss Mayfair, Inc. One of the customers that responded to the survey indicated that they increased purchases of imported ladies' coats and jackets and decreased purchases from Miss Mayfair in 1976. Some of the respondents were buying groups that represented many of Miss Mayfair's customers. The buying groups indicated that contracts with Miss Mayfair declined as a result of increased purchases of lower-priced imports.

Miss Mayfair began to import ladies' leather coats and jackets for the first time in 1976 and increased substantially their reliance on imports in 1977 as a source of the coats and jackets they marketed.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' coats and jackets produced at the New York, N.Y. plant of Miss Mayfair Originals, Inc. contributed importantly to the decline in sales and production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the New York, N.Y. plant of Miss Mayfair Originals, Inc. who became totally or partially separated from employment on or after May 23, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January, 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2672 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2285]

MODEL SPORTSWEAR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2285: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 25, 1977 in response to a worker petition received on August 19, 1977, which was filed by three workers on behalf of workers formerly producing men's and boys' outerwear jackets at Model Sportswear, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on September 8, 1977 (42 FR 44615). No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of Model Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

U.S. imports of men's and boys non tailored outer jackets decreased from 17,904 thousand units in 1974 to 15,551 units in 1975 and then increased to 15,736 units in 1976.

The ratio of imports to domestic production for men's and boys' nontailored outer jackets increased from 28.1 percent in 1974 to 34.6 percent in 1975 and then declined to 25.3 percent in 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed in the Department's investigation revealed that customers of Model Sportswear reduced purchases of men's and boys' outerwear jackets from the subject firm and increased purchases of imported jackets from 1975 to 1976.

The downward pressure of import competition on domestic prices of men's and boys jackets reduced Model Sportswear's ability to profitably produce and sell their garments. Consequently, the firm ceased production in November 1976 and went out of business in February 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' outerwear jackets produced at Model Sportswear, Inc., Paterson, N.J. contributed importantly to the decrease in sales and production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Model Sportswear, Paterson, N.J. who became totally or partially separated from employment on or after October 30, 1976 and before March 1, 1977 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated from employment on or after March 1, 1977 are denied eligibility.

Signed at Washington, D.C. this 23rd day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2673 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2219]

NATIONAL ELECTRIC MANUFACTURING CO., INC., ET AL

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2219: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 20, 1977 in response to a worker petition received on July 14, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing pole line hardware for electrical utilities at National Electrical Manufacturing, Inc., Pelham, Ala.

During the course of the investigation it was found that the company's correct name is National Electrical Manufacturing Co., Inc. and that the company is located in Pelham, Ala. The investigation was expanded to include Bethea Highline Hardware Corp. and Bethea Casting Corp., both of which are located in Pelham, Ala. and are involved in the integrated production process of pole line hardware for electrical utilities.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of National Electrical Manufacturing, Co., Inc., Bethea Highline Hardware Corp. and Bethea Casting Corp., their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actualy or relative to domestic production; and

(4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met for pole line hardware produced at the National Electrical Manufacturing Co. Inc. and the Bethea Highline Hardware Corp. and criterion (2) has not been met for iron castings produced at the Bethea Casting Corp.

The Department's investigation revealed that National Electrical Manufacturing Co. Inc., produced standard voltage pole line hardware and that Bethea Highline Hardware Corp. (formerly Bethea High Voltage Products Division) produced high voltage pole line hardware. A survey of customers of National Electrical Manufacturing Co. Inc. and Bethea Highline Hardware Corp. revealed that none of the customers surveyed purchased imported pole line hardware.

The Department's investigation also revealed that Bethea Casting Corp. produces iron castings. Sales of iron casting by Bethea Casting Corp. increases 7 percent from 1975 to 1976 and then increased 72 percent in the first six months of 1977 when compared to the same period in 1976. Production of iron castings by Bethea Casting Corp. increased 9 percent from 1975 to 1976 and then increased 85 percent in the first six months of 1977 when compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with pole line hardware produced by National Electric Manufacturing Co. Inc. and Bethea Highline Hardware Corp. (formerly Bethea High Voltage Products Division) both of Pelham, Ala. did not contribute importantly to the decline in sales or production or to the total or partial separation of workers of those firms.

It is further concluded that sales and production of iron castings at

Bethea Casting Corp., Pelham, Ala. have not declined as required under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 78-2674 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2097]

NEWPORT FINISHING CO.

Negative Determination Regarding Application for Reconsideration

On January 6, 1978, the petitioner for workers and former workers of Newport Finishing Co., of Fall River, Mass., requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65320).

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 determination 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. The only issue of substance raised by the petitioner in this case is whether or not imports of apparel or garments are "like or directly competitive with" the finished fabric produced by the workers at Newport Finishing Co.

It is the Department of Labor's position that imports of apparel or garments are not "like or directly competitive with" the articles produced by the workers' firm, within the meaning of section 222(3) of the Trade Act of 1974. The Department's determination in this case is consistent with the legislative history of the Trade Act of 1974, decisions of various U.S. courts, and administrative precedents of both the Department of Labor and the United States International Trade Commission.

CONCLUSION

After review of the application and 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 decision. The application is therefore denied.

Signed at Washington, D.C., this 20th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2675 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2274]

OHIO FERRO-ALLOYS CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2274: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 17, 1977, in response to a worker petition received on August 16, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ferrosilicon metal and silicon metal at the Brilliant, Ohio plant of Ohio Ferro-Alloys Corp., Canton, Ohio. During the course of the investigation it was revealed that only ferrosilicon metal has been produced at the Brilliant plant since June 1976.

The Notice of Investigation was published in the FEDERAL REGISTER on August 26, 1977 (42 FR 43155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ohio Ferro-Alloys Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of ferrosilicon increased from 70,577 short tons in 1975 to 98,775 short tons in 1976. Imports increased from 41,661 short tons in the first 6 months of 1976 to 50,631 short tons in the same period of 1977.

The ratio of imports to domestic production increased from 11.9 percent in 1975 to 15.3 percent in 1976 and increased from 12.9 percent in the first 6 months of 1976 to 15.5 percent in the same period of 1977.

CONTRIBUTED IMPORTANTLY

Customers of ferrosilicon metal produced at the Brilliant plant who were surveyed indicated that they had decreased purchases of ferrosilicon metal from the Ohio Ferro-Alloys Corp. and increased purchases of imported ferrosilicon metal.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ferrosilicon produced at the Brilliant, Ohio plant of the Ohio Ferro Alloys Corp. contributed importantly to the decline in sales or production and to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brilliant, Ohio plant of the Ohio Ferro-Alloys Corp. who became totally or partially separated from employment on or after August 12, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2676 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2273]

OHIO FERRO-ALLOYS CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In Accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2273: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 17, 1977, in response to a worker petition received on August 16, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing silicon metal at the Powhatan Point, Ohio, plant of Ohio Ferro-Alloys Corp., Canton, Ohio.

The Notice if Investigation was published in the FEDERAL REGISTER on August 26, 1977 (42 FR 43155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ohio Ferro-Alloys Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of silicon metal increased from 6,802 short tons in 1975 to 9,526 short tons in 1976. Imports increased from 6,092 short tons in the first 6 months of 1976 to 12,290 short tons in the same period of 1977.

The ratio of imports to domestic production increased from 6.6 percent in 1975 to 6.7 percent in 1976 and increased from 8.5 percent in the first 6 months of 1976 to 17.8 percent in the same period of 1977.

CONTRIBUTED IMPORTANTLY

Customers of silicon metal produced at the Powhatan Point plant who were surveyed indicated that they had decreased purchases of silicon metal from the Ohio Ferro-Alloys Corp. and increased purchases of imported silicon metal.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with silicon metal produced at the Powhatan Point plant the Ohio Ferro-Alloys Corp. contributed importantly to the decline in sales or production and to the total or partial separations of the workers at that plant. In Accordance with provisions of the Act, I make the following certification:

All workers at the Powhatan Point plant of the Ohio Ferro-Alloys Corp. who became totally or partially separated from employment on or after November 6, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2677 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2133]

OWENS-ILLINOIS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2133: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 10, 1977 in response to a worker peitition received on June 8, 1977, which was filed on behalf of workers and former workers producing glass envelopes for picture tubes at the Columbus, Ohio, plant of Owens-Illinois, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Owens-Illinois, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification to eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that the petitioning group of workers were engaged in employment related to the production of glass envelopes for picture tubes at the Columbus, Ohio, plant of Owens-Illinois, Inc. The Columbus plant produces these products for several television manufacturers. A complete television was not produced at Owens-Illinois, Inc.

Imports of glass envelopes for picture tubes are negligible and did not contribute importantly to any dislocations at the firm. The ratio of imports to domestic production was less than 1 percent from 1972 through the first 9 months of 1977. The results of a survery of customers of Owens-Illinois support the industry data. In 1976, all of Owens-Illinois customers increased purchases from the subject firm compared to the previous year. In the first 6 months of 1977 only one customer decreased purchases of glass envelopes for black and white televisions from the subject firm and increased import purchases, when compared to the first 6 months of 1976. However, the increase in import purchases by this customer accounted for only 2.4 percent of the total decline in sales by Owens-Illinois in the first half of 1977 compared to the first half of 1976. The customer survey further revealed that glass envelopes purchasesd from foreign sources were priced significantly higher than those purchased from Owens-Illinois. Additionally, Owens-Illinois is the sole source supplier for larger sizes of glass envelopes for black and white televisions. Customers also indicated that manufacturers of TV components such as Owens-Illinois are affected by imports of finished televisions. Imports of televisions which incorporated glass envelopes for picture tubes are not "like or directly competitive" with glass envelopes for picture tubes within the meaning of section 222(3) of the Trade of 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of glass envelopes for picture tubes like or directly competitive with glass envelopes for picture tubes produced at the Columbus, Ohio plant of Owens-Illinois, Inc., did not contribute importantly to the decrease in sales and production or to the total or partial separation of workers at that plant as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc 78-2678 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2203]

QUASAR ELECTRONICS CO., ENGINEERING DEPARTMENT

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2203: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 13, 1977, in response to a worker petition received on July 12, 1977, which was filed on behalf of workers and former workers producing designs, specifications, and blueprints for color televisions in the Engineering Department of Quasar Electronics Co., Franklin Park, Ill.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (41 FR 39157). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Quasar Electronics Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for the Franklin Park Engineering Department.

Quasar Electronics Co., was organized as a Delaware corporation on January 14, 1974. In November 1975, Quasar merged with its parent, Matsushita Electric Corp. of America. Coincidental with the merger the Quasar Corp. changed its name to Matsushita Electric Corp. of America, with the television producing assets continuing to operate as a separate division known as Quasar Electronics Co.

The Franklin Park plant began producing televisions approximately 20 years ago. The Franklin Park plant assembles components (electrical chassis, tuners, cathode ray tubes, cabinets) into finished color televisions. Sources for these components vary. No components, per se, are or were previously, manufactured at Franklin Park.

Franklin Park is Quasar's only domestic production facility for color televisions. Administrative offices (including the engineering department) are located at Franklin Park.

Prior to Quasar's merger with Matsushita in 1975, all designs, specifications, and blueprints for Quasar televisions were produced in the Franklin Park engineering department. Following the merger, the design function was gradually phased out at Franklin Park and transferred to the parent company in Japan. Presently, all televisions produced by Quasar are designed and developed in Japan, rather than Franklin Park. Company imports of color television receivers increased from 1975 to 1976 and increased in the first 6 months of 1977 compared to the first 6 months of 1976.

Employment in the Franklin Park engineering department declined 29 percent from 1975 to 1976 and declined 15 percent in the first 6 months of 1977 compared to the like period of 1976. The greatest employment reduction occurred in July 1977, when employment in the Engineering Department declined 40 percent compared to June 1977.

The production of designs and specifications for color television was an integrated stage of production of completed televisions at Franklin Park. Therefore, imports of completed televisions may be considered like or directly competitive with articles produced in the engineering department at Franklin Park.

Imports, in quantity, of color televisions increased absolutely from 1972 to 1973, then declined from 1973 to 1974 and declined from 1974 to 1975. Imports increased 135 percent from 1975 to 1976 and increased 25 percent in the first 6 months of 1977 compared to the like period of 1976. The ratios of imports to domestic production and consumption increased from 21.3 percent and 18 percent, respectively, in 1975 to 46.3 percent and 32.2 percent, respectively, in 1976 and increased from 39 percent and 28.5 percent, respectively, in the first 6 months of 1976 to 39.7 percent and 28.7 percent, respectively, in the first 6 months of 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with color television sets for which designs are produced in the engineering department of Quasar Electronics Co., Franklin Park, Ill., contributed importantly to the decline in production and to the total or partial separations of workers in that department. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of designs, specifications, and blueprints for color televisions in the engineering department of Quasar Electronics Co., Franklin Park, Ill., who became totally or partially separated from employment on or after July 6, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

James F. Taylor,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2679 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2299]

ROBERT HALL CLOTHES

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2299: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977, in response to a worker petition received on August 22, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers engaged in warehousing of men's tailored clothing at the Jersey City, N.J., warehouse of Robert Hall Clothes. During the investigation it was revealed that the warehouse handled men's, women's, and children's apparel.

The notice of investigation was published in the Federal Register on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Merchants and Manufacturers, Inc., Robert Hall Clothes, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Evidence developed during the Department's investigation revealed that the warehouse in Jersey City, N.J., handled men's, women's, and children's apparel that was predominantly purchased from domestic sources other than Robert Hall Clothes and from imported sources. Employees of this warehouse were engaged in the warehousing and distribution of men's, women's, and children's apparel. Since the warehouse handled apparel which was purchased predominantly from sources other than Robert Hall Clothes, it has been determined that it is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974.

The warehouse did not produce any articles and that Department of Labor has previously determined that the performance of services is not included in the term "articles" as used in section 222(3) of the Act. See notice of negative determination in Pan American World Airways, Inc. (TA-W-153; 40 FR 54639).

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that the Jersey City, N.J., warehouse is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974. Moreover, the services provided by the Jersey City warehouse are not articles within the meaning of section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2680 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W- 2295, 2296, and 2298]

ROBERT HALL CLOTHES

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Robert Hall Clothes, 34th Street, New York, N.Y.; 35th Street, Long Island City, N.Y.; and Robert Hall Clothes, Middle Village, N.Y.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W- 2295, 2296, and 2298: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations were initiated on August 29, 1977, in response to worker petition received on August 22, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of former workers engaged in warehousing of men's tailored clothing at Robert Hall Clothes, New York City, Long Island City, and Middle Village, N.Y. During the investigation it was revealed that the warehouses handled men's, women's, and children's apparel.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from United Merchants & Manufacturers, Inc., Robert Hall Clothes, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Evidence developed during the Department's investigation revealed that the New York City, Long Island City, and Middle Village, N.Y., warehouses handled men's, women's, and children's apparel items which were purchased predominantly from domestic sources other than Robert Hall Clothes and from imported sources. Employees of these warehouses were engaged in the warehousing and distribution of men's, women's, and children's apparel. Since the warehouses handled apparel which was purchased predominantly from sources other than Robert Hall Clothes it has been determined that they are not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974.

The warehouses did not produce any articles and the Department of Labor has previously determined that the performance of services is not included within the term "articles," as used in section 222(3) of the Act. See notice of negative determination in Pan American World Airways, Inc. (TA-W-153; 40 FR 54639).

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that New York City, Middle Village, and Long Island City, N.Y., warehouses are not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974. Moreover, the services provided by these warehouses are not articles within the meaning of section 222(3) of the Trade Act.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2681 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2294]

ROBERT HALL CLOTHES

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2294: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977, in response to a worker petition received on August 18, 1977, which was filed on behalf of workers and former workers engaged in the retail selling of men's tailored clothing at Wilkes-Barre, Pa., store of Robert Hall Clothes. During the investigation it was revealed that the store sold men's, women's, and children's apparel.

The Notice of Investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Merchants and Manufacturing, Inc., Robert Hall Clothes, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Evidence developed during the Department's investigation revealed that the retail store in Wilkes-Barre, Pa., sold men's, women's, and children's apparel. In 1975 and 1976 over 90 percent of the volume of apparel sold in an average retail store, which includes the Wilkes-Barre, Pa., store, was purchased from domestic sources other than Robert Hall Clothes and from imported sources. Employees of the retail store were engaged in the retail selling of men's, women's, and children's apparel that they purchased predominantly from domestic sources other than Robert Hall, and from abroad. Since the retail store handled apparel which was purchased predominantly from sources other than Robert Hall Clothes, it has been determined that it is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974.

The retail store did not produce any articles and the Department of Labor has previously determined that the performance of services in not included within the term "articles", as used in section 222(3) of the Act. See Notice of Negative Determination in Pan American World Airways, Inc. (TA-W-153; FR 40 54639).

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that the Wilkes-Barre, Pennsylvania retail store is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974. Moreover, the services provided by the Wilkes-Barre, Pa., retail store are not articles within the meaning of section 222(3) of the Trade Act.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2682 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2732]

SHENANGO, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2732: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 6, 1977, in response to a worker petition received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ingot molds at the Buffalo, New York Division of Shenango, Inc., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Shenango, Inc. industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

The Buffalo, New York Division of Shenango Inc., produces ingot molds exclusively.

There is no separately identifiable import data on ingot molds in the Tariff Schedules of the United States Annotated.

The evidence developed in the Department's investigation indicates that there is no import influence in this market sector.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with ingot molds produced at the Buffalo, New York Division of Shenango, Inc., did not contribute importantly to the total or partial separations of the workers at that plant as required by section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2683 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2481]

SIERRITA PROPERTY OF DUVAL CORPORATION

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2481: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1977, in response to a worker petition received on October 13, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Sierrita, Tucson, Ariz., property of Duval Corp. The notice of investigation was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duval Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Department of the Interior, The American Metals Market, Metal Bulletin, Metal Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to workers producing copper concentrate, and that the third criterion has not been met with respect to workers producing molybdenum concentrate, molybdenum trioxide, sulfide and ferromolybdenum.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Sierrita property increased in 1976 compared to 1975 and then declined in the first nine months of 1977 compared to the same period in 1976. This decline is attributable to the decline in employment in the third quarter of 1977 compared to the same quarter in 1976. Separations occurred from August 8, 1977 through September 18, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of copper concentrate at the Sierrita property increased in 1976 compared to 1975 and then declined in the first nine months of 1977 compared to the same period in 1976. Production declined in the second and third quarters of 1977 compared to the same quarters in 1976.

Production of molybdenum increased in 1976 compared to 1975 and declined in the first nine months of 1977 compared to the same period in 1976.

Production of copper concentrate at Sierrita is integrated into Duval's final sales of refined copper. Production of molybdenum is integrated into the production and sale of molybdenum trioxide, molybdenum sulfide, and ferromolybdenum by Duval.

INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

U.S. imports of copper ore, concentrate, precipitates and matte increased

each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

Imports of molybdenum concentrate increased from 385,000 pounds in 1972 to 458,000 pounds in 1973, declined to 155,000 pounds in 1974, increased to 2.567 million pounds in 1975 and then declined to 2.093 million pounds in 1976. Imports of molybdenum declined from 1.623 million pounds in the first nine months of 1976 to 1.426 million pounds in the same period of 1977.

The ratio of imports to domestic production increased from 0.34 percent in 1972 to 0.40 percent in 1973, declined to 0.14 percent in 1974, increased to 2.42 percent in 1975 and declined to 1.86 percent in 1976.

Industry sources indicated that imports of molybdenum in stages other than concentrate, are negligible.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Duval and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the forseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Duval's decision to layoff workers and reduce its mining operations was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Duval substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

with respect to production of molybdenum ("moly") Duval and other producers have experienced increasing domestic prices for moly in the January to September 1977 period. In order to take advantage of the high prices for moly, Duval is planning to bypass ore with low moly content in order to mine ores with higher levels of moly per ton extracted. The current sellers market for molybdenum has allowed Duval to maintain a higher level of production and employment at its three facilities than would have been possible were moly an insignificant percentage of Duval's sales.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper concentrate produced at the Sierrita property of Duval Corp., contributed importantly to the decline in production and to the total or partial separation of the workers at that property. In accordance with the provisions of the Act, I make the following certification:

All employees engaged in employment related to the mining of copper and the production of copper concentrate at the Sierrita, Tucson, Ariz., property of Duval Corp. who became totally or partially separated from employment on or after May 31, 1977 are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with molybdenum concentrate, molybdenum trioxide, sulfide and ferromolybdenum produced at the Sierrita Tucson, Ariz., Property of Duval Corp., did not increase as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2684 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2606]

UNION CITY SHOE SUPPLIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2606: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 14, 1977 in response to a worker petition received on November 4, 1977 which was filed on behalf of workers and former workers producing insoles at Union City Shoe Supplies, Inc., Union, Mo.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union City Shoe Supplies, Inc., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Union City Shoe Supplies, Inc. was acquired June 15, 1975 as a subsidiary

by Philip Clayman & Sons, Inc. Workers at Union City Shoe produce a finished shoe insole. Production is sold to individual shoe manufacturers.

Evidence developed in the Department's investigation reveals that there are no separately identifiable imports of insoles. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of footwear components have been negligible in the 1970's.

Imports of shoes which incorporate insoles of the same origin are not like or directly competitive with insoles produced by workers at Union City Shoe Supplies, Inc. within the meaning of section 222(3) of the Trade Act of 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with those produced by workers at Union City Shoe Supplies, Inc., Union, Mo., have not contributed importantly to the decline in sales or production of the firm or to the total or partial separation of workers at that firm as required in section 222 of the Trade Act of 1974. The petition is therefore denied.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-2685 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2287]

WESTERN ELECTRIC CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2287: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 25, 1977 in response to a worker petition received on August 18, 1977 which was filed on behalf of workers and former workers producing repeaters and equalizers for submarine cables at the Clark, N.J. plant of Western Electric Co.

The Notice of Investigation was published in the FEDERAL REGISTER on September 8, 1977 (42 FR 44615). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Western Electric Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the above criteria have been met, criterion (4) has not been met.

Western Electric Co. is one of four major components that comprise the Bell System. The Clark, N.J. plant of Western Electric is specifically designed to produce repeaters and equalizers for submarine cable systems. Submarine cables are underwater cables that carry telephone transmissions.

Industry analysts indicate that imports of submarine cable repeaters and equalizers are negligible.

None of the components of the repeaters or equalizers produced at the Clark facility are purchased from foreign sources.

Industry analysts indicate there is no import influence on repeaters and equalizers like those produced at the Clark Plant because every submarine cable system that originates or terminates in the United States is manufactured by Western Electric Co. A submarine cable from one point to another is engineered as a complete system. Each repeater or equalizer is designed to fit its sequential order when the system is designed. This sequential ordering means that one repeater will not substitute for any other repeater. The same holds true for equalizers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with repeaters and equalizers for submarine cables produced at the Western Electric Co., Clark, N.J. did not contribute importantly to declines in sales and to separations of workers at that plant, as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2686 Filed 1-30-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2427]

AMETEK INC., SCHUTTE & KOERTING DIVISION

Negative Determination Regarding Eligibility To Apply for Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2427: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 6, 1977, in response to a worker petition received on September 30, 1977, which was filed by Local 281 of the International Union of Electrical Workers on behalf of the workers and former workers producing heat exchangers at the West Hartford, Conn., plant of Whitlock Manufacturing Co., Schutte and Koerting Division of AMETEK, Inc.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of AMETEK, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any other criteria have been met the following criterion has not been met:

That increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

The Department conducted a survey of customers representing the majority of sales of the West Hartford, Conn., plant of the Whitlock Manufacturing Co. All of the customers contacted responded that they do not purchase any imported heat exchangers.

Imports of heat exchangers have consistently accounted for less than 0.75 percent of domestic consumption

and production over the past five years.

Heat exchangers for nuclear power stations must meet strict American Society of Mechanical Engineers (ASME) standards. Before ASME approves a part, it generally sends inspectors to the manufacturer's plant. Therefore, meeting these standards might prove to be difficult for foreign manufacturers. A telephone survey of several domestic companies manufacturing heat exchangers for use in nuclear powerplants revealed that none of those contacted was aware of foreign competition of heat exchangers for nuclear powerplants.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with heat exchangers produced at the West Hartford, Conn., plant of Whitlock Manufacturing Co. did not contribute importantly to the total or partial separation of the workers at that plant as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-2649 Filed 1-30-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 23, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

EXECUTIVE OFFICE—OTHER

New Jobs Tax Credit, S-404, single time, random sample of firms eligible for credit, C. Louis Kincannon, Strasser, A., 395-3211.

ENVIRONMENTAL PROTECTION AGENCY

Stack Gas Reheat Assessment Survey, single time, fossil fuel electrical generating utilities, Ellett, C. A., 395-6132.

U.S. INTERNATIONAL TRADE COMMISSION

Questionnaire for Importers of Cotton Gloves, single time, importers of cotton gloves, C. Louis Kincannon, 395-3211.

DEPARTMENT OF COMMERCE

Bureau of Census, Listing Page, single time, households in six barrios in Puerto Rico, Marsha Traynham, 395-3773.

DEPARTMENT OF DEFENSE

Departmental and Other, Contract Pricing Proposal, on occasion, business firms contracting with DOD, Marsha Traynham, 395-3773.

REVISIONS

VETERANS ADMINISTRATION

Income—Net Worth and Employment Statement, VAF21-527, on occasion, veteran, Lowry, R. L., 395-3772.

U.S. INTERNATIONAL TRADE COMMISSION

Household Earthen Table and Kitchen Articles (Importers), on occasion, importers, C. Louis Kincannon, 395-3211.

Household Earthen Table and Kitchen Articles, annually, domestic manufacturers, C. Louis Kincannon, 395-3211.

U.S. CIVIL SERVICE COMMISSION

Supplemental Qualifications Statement for Librarians, CSC1143, on occasion, applicants for Federal employment, Marsha Traynham, 395-3773.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, 1978 Crop Acreage Set-Aside Participation Survey, single time, sample of farms, Ellett, C. A., Office of Federal Statistical Policy and Standard, 395-6132.

Food and Nutrition Service, State Administration Expense Funds, on occasion, school food authorities and State agencies, Human Resources Division, Budget Review Division, 395-3532.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, monthly report of motor vehicle traffic fatalities, HS251, monthly, State traffic records agencies, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, List Sampling Frame Survey, annually, farmers, Ellett, C. A. Office of Federal Statistical Policy and Standards, 395-6132.

Agricultural Stabilization and Conservation Service, Prevented Planting Claim-Farms, ASCS-574-1 on occasion, farmers, Ellett, C. A., 395-6132.

DEPARTMENT OF DEFENSE

Department of the Navy, Instructor Evaluation Summary, semi-annually, Government agencies, Marsha Traynham. 395-3773.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-2734 Filed 1-30-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 24, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

REVISIONS

VETERANS ADMINISTRATION

Application for Veterans Group Life Insurance (follow up) (veterans separated on or after Aug. 1, 1974), 29-8714-3, on occasion, veterans, Lowry, R. L., 395-3772.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service, Annual Statistical Report on Cost Standards and Maximums and Other Limitations on Money Payments, SRS NCSS 1, annually, State welfare agencies, Human Resources Division, 395-3532.

Social Security Administration, Establishment Reporting Plan, List of Establishments, SSA5019, on occasion, multilocation firm, Lowry, R. L., 395-3772.

Social and Rehabilitation Service, Annual Statistical Report on Hearings, SRS NCSS 105, annually, report prepared by State welfare agencies, Lowry, R. L., 395-3772.

Health Care Financing Administration (Medicaid), Statistical Report on Medical Care: Recipients, Payments, Services, SRS

NCS 2082, annually, State medicaid agencies, Lowry, R. L., 395-3772.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-2735 Filed 1-30-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

VISIT TO POSTAL FACILITIES

JANUARY 26, 1978.

Notice is hereby given that Chairman Clyde S. DuPont of the Postal Rate Commission visited a United Parcel Service facility on the date indicated for the purpose of acquiring general background knowledge of operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission was discussed.

A report of the visit will be on file in the Commission's docket room.

Place of visit	*Date of visit*
Honolulu, Hawaii	Jan. 21, 1978.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-2634 Filed 1-30-78; 8:45 am]

[7715-01]

VISIT TO POSTAL FACILITIES

JANUARY 26, 1978.

Notice is hereby given that Commissioner Simeon M. Bright of the Postal Rate Commission visited a Postal Service facility on the date indicated for the purpose of acquiring general background knowledge of postal operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission was discussed.

A report of the visit will be on file in the Commission's docket room.

Place of visit	*Date of visit*
Washington, D.C.	Jan. 24, 1978.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-2633 Filed 1-30-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

Public Notice

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW

Meeting

A meeting of the Secretary of State's Advisory Committee on Private International Law will be held at 10:30 a.m. on Wednesday, February 22, 1978, in room 5519 of the Department of State. Members of the general public may attend and participate in the discussion subject to instructions of the Chairman.

The principal purpose of the meeting will be to consider positions which may be taken by the United States delegation to the United Nations Diplomatic Conference on the Carriage of Goods by Sea to be held in Hamburg, Germany, March 6-31, 1978.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to February 22, 1978, members of the general public who plan to attend the meeting inform their name, affiliation and address to Ms. Dorothy Fagan, Office of the Legal Adviser, Department of State; the telephone number is area code 202-632-8134. All non-government attendees at the meeting should use the C Street entrance.

Dated: January 23, 1978.

RICHARD D. KEARNEY
Chairman.

[FR Doc. 78-2596 Filed 1-30-78; 8:45 am]

[7040-01]

SUSQUEHANNA RIVER BASIN COMMISSION

COMPREHENSIVE PLAN FOR MANAGEMENT AND DEVELOPMENT OF THE WATER RESOURCES OF THE SUSQUEHANNA RIVER BASIN

Announcement of Public Hearing on Proposed Amendments

The Susquehanna River Basin Commission will hold a public hearing to receive comments from citizens, government agencies, and others about proposed amendments to its Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin. The hearing has been scheduled for March 9, 1978, at the Penn Harris Motor Inn, Camp Hill, Pa., beginning at 1 p.m.

The Susquehanna River Basin Compact (Pub. L. 91-575, 84 Stat. 15909 et seq.) requires the Commission to maintain a comprehensive plan for the immediate and long-range use, management, and development of the water and related resources of the basin. Initially adopted in December 1973, the plan provides a basinwide strategy to guide the management, use, and conservation of the basin's resources. The plan is also used to evaluate proposed water resource developments that the Commission must, by law, approve.

The proposed amendments to the comprehensive plan expressly recognize the public's many rights in the waters of the basin without undue disruption or degradation by other uses. Accordingly, the amendments would add new goals calling for restoration of the river's migratory fishery and releases from dams consistent with fishery needs and recreational uses. Also part of the proposed amendments is an early action program to manage the lower Susquehanna River to achieve a balance among economic development, environmental quality, and protection of public rights.

The March 9 hearing will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views, and comments on the proposed amendments. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given opportunity to be heard, whether or not they have given such notice. After the hearing, the Commission will evaluate all relevant material and decide whether to adopt as proposed, modify, or not adopt, the amendments.

For a copy of the proposed amendments or additional information, contact the Office of the Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburgh, Pa. 17102, 717-238-0422.

Dated: January 23, 1978.

ROBERT J. BIELO,
Executive Director.

[FR Doc. 78-2567 Filed 1-30-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 579]

Assignment of Hearings

JANUARY 26, 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.

MC 73165 (Sub 405), Eagle Motor Lines, Inc.; MC 106398 (Sub 775), National Trailer Convoy, Inc.; MC 118959 (Sub 149), Jerry Lipps, Inc.; MC 60014 (Sub 46), Aero Trucking, Inc. and MC 11207 (Sub 393), Deaton, Inc. now assigned February 9, 1978 at Jacksonville, Fla., in Room 100, Voyager Building, 2255 Phyllis Street, is transferred to United States Court of Appeals, 311 West Monroe Street in Jacksonville, Fla.

MC 13250 (Sub 138), J. H. Rose Truck Line, Inc., now assigned February 8, 1978 at Jacksonville, Fla., in Room 100, Voyager Building, 2255 Phyllis Street, is transferred to the United States Court of Appeals, 311 West Monroe Street in Jacksonville, Fla.

FD-28648, Churchill Truck Lines, Inc., is now assigned for hearing February 6, 1978 (2 weeks), at Dallas, Tex., and will be held at the Holiday Inn-Downtown, 1015 Elm Street.

MC 138861 (Sub 6), C-Line, Inc. now assigned February 1, 1978 at Washington, D.C. is cancelled, application dismissed.

MC 106074 (Sub 48), B & P Motor Lines, Inc. now being assigned March 22, 1978 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

No. 36432 (Sub 1), Fresh Fruits and Vegetables, Transcontinental Eastbound now assigned March 1, 1978 at San Francisco, Calif., is postponed to May 2, 1978 (3 weeks), at San Francisco, Calif., in a hearing room to be later designated.

MC 140511 (Sub 5), Autolog Corp. now assigned March 15, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 143127 (Sub 1), K.J. Transportation, Inc. now assigned March 13, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 119789 (Sub 367), Caravan Refrigerated Cargo, Inc., now assigned March 20, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 133565 (Sub 11), True Transport, Inc., now assigned March 6, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 125433 (Sub 120), F-B Truck Line Co., is now assigned for hearing March 22, 1978 (2 days), at Los Angeles, Calif., at a hearing room to be later designated.

MC 108119 (Sub 68), E. L. Murphy Trucking Co., is now assigned for hearing March 22, 1978 (2 days), at Los Angeles, Calif., at a hearing room to be later designated.

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

[FR Doc. 78-2635 Filed 1-30-78; 8:45 am]

[7035-01]

[Docket No. AB-7 (Sub-No. 31)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Abandonment Between Bagley Junction and Enumclaw, King County, Wash.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated January 12, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co., Abandonment, Goshen*, 354 I.C.C. 76 (1977), the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. of (1) its line from milepost 0.0 at Bagley Junction to milepost 7.67 neart Bayne, Wash. and form milepost 15.51 near Enumclaw, Wash. to milepost 16.0 at Enumclaw, and (2) operations over the track jointly owned with Burlington Northern, Inc. from milepost 7.67 near Bayne, to Burlington Northern milepost 15.51 near Enumclaw, Wash. a total distance of approximately 16.0 miles, including 1.18 miles of auxiliary trackage, in King County, Wash. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular busines hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 15, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 17, 1978.

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

[FR Doc. 78-2636 Filed 1-30-78; 8:45 am]

[7035-01]

[Ex Parte No. 297 (Sub-No. 4)]

REOPENING OF SECTION 5a APPLICATION PROCEEDINGS TO TAKE ADDITIONAL EVIDENCE

Collective Ratemaking Agreements; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction to notice publication.

SUMMARY: Changes are being made to correct inadvertent errors in the Commission's notice in this proceeding served January 6, 1978, and published in the FEDERAL REGISTER on January 11, 1978, at pages 1666 to 1668. These corrections are being made to clarify language in the notice in this proceeding and to authorize the filing of replies.

FOR FURTHER INFORMATION CONTACT:

Deputy Director, Janice Rosenak or Asst. Deputy Director, Harvey Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7693.

SUPPLEMENTARY INFORMATION: The Commission is making the following two corrections in its notice in this proceeding, served and published on the dates indicated above:

(1) In the fifth paragraph under the section entitled "Standard of Review" the last sentence should read "* * * from the standpoint of the National Transportation Policy outweigh the harm the agreement does to the public interest from the standpoint of national antitrust policy." The words "do not" as they appear between the words "Policy * * * outweigh" should be deleted.

(2) In the first paragraph under the section entitled "Other Matters," the first sentence should be changed to read, "Unless the Commission states otherwise with respect to any particular proceeding, answers to initial statements filed in any of these proceedings will be due thirty days after the filing of the initial statement, and replies to such answers, if there be any, will be due twenty days after the filing of the answer."

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

JANUARY 23, 1978.

[FR Doc. 78-2637 Filed 1-30-78; 8:45 am]

[6820-27]

OFFICE OF THE FEDERAL REGISTER

FREEDOM OF INFORMATION INDEX REQUIREMENTS

Guide to Agency Material; January–December 1977

AGENCY: Office of the Federal Register, NARS, GSA.

ACTION: Notice of availability of indexes.

SUMMARY: This notice contains information submitted by agencies to the Office of the Federal Register for the calendar year 1977 on indexes that the agencies are required to publish or make available under the Freedom of Information Act. This notice is compiled and published to notify the public of the availability of these indexes for sale or public inspection or both.

FOR FURTHER INFORMATION CONTACT:

Doris O'Keefe, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408 (202-523-3187).

SUPPLEMENTARY INFORMATION: 5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Certain amendments (Pub. L. 93-502, November 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the calendar year 1977 in order to notify the public of the availability of these indexes for sale or public inspection or both.

FRED J. EMERY,
Director, Office of the Federal Register.

JANUARY 20, 1978.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Agriculture, Agricultural Stabilization and Conservation Service.	ASCS handbooks: Written in the Kansas City Commodity Office. Current listing of all administrative procedures that affect a member of the public.	Director, Kansas City Commodity Office, USDA, ASCS, P. O. Box 8377, Shawnee Mission, Kans. 66208.	Director, Management Services Division USDA, ASCS, P. O. Box 2415, Washington D.C. 20013.
Do.	ASCS handbooks: Written in the Management Field Office. Current listing of all administrative procedures that affect a member of the public.	Director, Management Field Office, USDA, ASCS, P. O. Box 205, Kansas City, Mo. 64141.	Do.
Do.	ASCS handbooks: Written in Washington Offices. Current listing of all administrative procedures that affect a member of the public.	Director, Management Services Division, USDA, ASCS, P. O. Box 2415, Washington, D.C. 20013. No charge.	Do.
Do.	Marketing quota, Review committee determinations; 1970 to date; listing by crop-year of all decisions made on marketing quota appeals.	Director, Management Services Division, USDA, ASCS; P.O. Box 2415, Washington, D.C. 20013. No charge.	Director, Management Services Division, USDA, ASCS, P.O. Box 2415, Washington, D.C. 20013.
Do.	Board of contract appeals decisions; 1970 to date; listing of all decisions on appeals affecting ASCS and or CCC.	do.	Do.
Do.	CCC Board dockets; 1969 to date; listing of all Commodity Credit Corporation dockets approved by the Secretary of Agriculture.	do.	Do.
Do.	ASCS program appeals; 1970 to date; chronological listing of all appeals handled by ASCS program appeals staff.	do.	Do.
Department of Agriculture, Rural Electrification Administration.	Index of current REA publications: Electric Program, as of Apr. 18, 1977, with supplement thereto updating the index to Dec. 31, 1977. An alphabetic and numerical index of REA electric program bulletins, staff instructions, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250. No charge.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250.
Do.	Index of current REA publications: Telephone as of Mar. 25, 1977, with supplement thereto updating the index to Dec. 31, 1977. An alphabetic and numerical index of REA telephone program bulletins, staff instructions, contract forms, specifications, sections of the Telephone Engineering and Construction and Telephone Operations manuals, and the rules and regulations of the Rural Telephone Bank.	do.	Do.
Department of Defense, Department of the Air Force.	Numerical index of departmental forms (AFR 0-9). Dec. 2, 1977. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation. Shelf stock. $2.88 per copy; reproduced copies, $6.10 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	DADF at nearest Air Force installation.
Do.	Guide to indexes, catalogs, and lists of departmental publications (AFR 0-1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, $2.05 per copy; reproduced copies $2 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do.	Numerical index of standard publications and recurring periodicals (AFR 0-2). Dec. 2, 1977. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force Installation. Shelf stock. $2.80 per copy; reproduced copies $5.70; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do.	Miscellaneous Air Force and other Government agency publications (AFR 0-16). Sept. 10, 1976. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, $2.08 per copy; reproduced copies, $2.10 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do.	Publications Numbering Systems (AFR 5-4). February 15, 1974. Contains subject series and description guide and alphabetical list of subjects.	DADF at nearest Air Force installation. Shelf stock $2.15 per copy, reproduced copies $2.45 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Disposition of Air Force documentation (AFM 12-50). Oct. 1, 1969. Pt. 2 consists of decision logic tables which provide for disposition of documentation created or accumulated by all Air Force activities. Attachment 3 is an index to the tables, arranged alphabetically by title of the record.	DADF at nearest Air Force installation. Shelf stock will not be used. Pt. 2 is voluminous, therefore, only tables pertaining to requested records will be reproduced. $2. for 1st 6 pages, plus $0.05 for each additional page. Checks payable to: AFO (name of base furnishing copies).	Do.
Department of Defense, Department of the Army, TAGCEN, Army Publications Directorate.	DA pamphlet 310-1: Index of administrative publications (regulations, circulars, pamphlets, posters, general orders, joint chiefs of staff publications.) March 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $1.28. Make checks payable to: Treasurer of United States. In addition to the indicated prices of the indexes, there is a $2 charge for each order, regardless of the size of the order. For example, if DA Pamphlet 310-1 is ordered, add $2 to the price of $1.28. If all the pamphlets are ordered, add $2 to total price of $13.55	Director, Army Publications Directorate Forrestal Bldg., Washington, D.C. 20314.
Do	DA pamphlet 310-2: Index of blank forms, December 1976.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $1.52. Make checks payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-3: Index of doctrinal, training, and organizational publications (field manuals, reserve officer's training corps manuals, training circulars, Army training programs, Army subject schedules, Army training tests, firing tables and trajectory charts, tables of distribution and allowances). Basic dated June 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd. Baltimore, Md. 21220. Price: $1.17. Make checks payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-4: Index of technical manuals, technical bulletins, supply manuals (types 7, 8, and 9), supply bulletins, and lubrication orders. October 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220, Price: $6.52. Make checks payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-6: Index of supply catalogs and supply manuals. Basic dated July 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd Baltimore, Md. 21220. Price: $1.70. Make checks payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-7: Index of Equipment Modification Work Orders, August 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd. Baltimore, Md. 21220. Price: $1.36. Make checks payable to: Treasurer of United States.	Do.
Department of Defense, Department of the Navy.	Directives Issuance System Consolidated Subject Index of Unclassified Instructions (NAVPUBNOTE 5215). Published quarterly. Lists instructions issued by Washington headquarters organizations to addressees outside their headquarters.	Commanding Officer, Naval Publications and Forms Center, Philadelphia, Pa. 19120. Price: $5 per issue. Make check payable to the Treasurer of the United States.	Navy Department Library, 2d floor of building 220 at the Washington Navy Yard, U.S. Naval Station, 9th and M Sts. NW., Washington, D.C. Also available at nearest Navy or Marine Corps activity.
Do	Marine Corps Directives System Quarterly Checklist of Directives (MARCORPS Bulletin 5215).	Commandant of the Marine Corps (code HQSP), Navy Department, Washington, D.C. 20380. Price: minimum of $2 plus $0.01 per page over 6 when stock is available and $0.05 per page when not available and must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and Headquarters Marine Corps, room 1135 of the Navy Arlington Annex (Federal Office Bldg. No. 21), Southgate Rd. and Columbia Pike, Arlington, Va. Also at nearest Marine Corps activity.
Do	Indexes to Navy and Marine Corps directives issued by naval activities and of less than departmentwide or general applicability.	Local Navy and Marine activity. Price: minimum of $2, plus $0.01 per page over 6 when stock is available and $0.05 when not available and pages must be reproduced.	Local Navy and Marine Corps issuing activity.
Do	Marine Corps' Stock List (SL-1-3): Quarterly index of publications authorized and stocked by the U.S. Marine Corps (PASMC).	Commandant of the Marine Corps (code HQSP), Navy Department, Washington, D.C. 20380. Price: $2, plus $0.01 per page over 6 when stock is available and $0.05 when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Headquarters, U.S. Marine Corps, Room 1135 of the Navy Arlington Annex (Federal Office Bldg., No. 21), Southgate Rd. and Columbia Pike, Arlington, Va. 20380. Also at Marine Corps field activities and Navy Department Library (see above).
Do	Standard Subject Identification Codes (SEC NAVINST 5210.11A). Lists standard subject (numerical) codes used for categorizing and identifying naval documents, including directives, blank forms, reports (control symbols), and other records and filing systems.	Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120. Price: minimum of $2, plus $0.01 per page over 6 when stock is available and $0.05 when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and at all naval shore activities.
Do	NAVFAC Documentation Index (NAVFAC P-349): A Keyword Out of Context (KWOC) index of unclassified instructions, publications, forms, and reports sponsored by the Naval Facilities Engineering Command (NAVFAC).	Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120. Price: $5. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and at Naval Facilities Engineering Command headquarters and field activities.
Do	Indexes to certain other technical publications and manuals of sponsoring system command or other headquarters organizations.	Director, Navy Publications and Printing Service Management Office, Washington Navy Yard, U.S. Naval Station, Washington, D.C. 20374. Price: $2 minimum plus $0.01 per page over 6 if printed stock is available and $0.05 per page when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Navy Publications and Printing Service Management Office, building 157, Washington Navy Yard, 9th and M Sts. SE., Washington, D.C.
Do	Index to Navy Procurement Directives	Chief of Naval Material (MAT-05), Navy Department, Washington, D.C. 20360. Price: $2 minimum, plus $0.01 per page over 6 when stock is available and $0.05 per page when not available and copies must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and Navy procurement activities.
Defense Civil Preparedness Agency.	Publications catalog, MP-20: A listing of publications and other printed matter on the U.S. Civil Defense program available to the public. Contains a brief resume of each one and provides information on where to obtain.	U.S. Army Publications Center, Civil Preparedness Branch, 2800 Eastern Blvd. (Middle River), Baltimore, Md. 21220. No charge.	DCPA Headquarters, Room 1D511, Pentagon Bldg., Washington, D.C. 20301 or DCPA regional offices as shown at app. C, pt. 1813, ch. XVIII, title 32, CFR.
Do	DCPA manual 5450.2: Index of DCPA instructions and manuals, a listing, both numerical and subjective, of the Agency instructions announcing policy, outlining programs, and prescribing internal operating procedures.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Defense Communications Agency.	1. DCA circulars and notices: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA circulars and notices. Those circulars, notices, and changes published during the period Jan. 1–June 30, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those publications which have been canceled or replaced since Jan. 1, 1977 by a publication of a different number. Publications superseded by a revised issue bearing the same number are not included. Enclosure 2 is an alphabetical listing of current DCA circulars. Enclosure 3 is an alphabetical listing of current DCA Notices. 2. DCA instructions: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA instructions. Those instructions and changes published during the period Apr. 1–Sept. 30, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those instructions which have been canceled or replaced by an instruction of a different number since Apr. 1, 1977. Enclosure 2 is an alphabetical listing of current DCA instructions.	Defense Communications Agency, Washington, D.C. 20305. No charge.	Defense Communications Agency, 8th St. and South Courthouse Rd., Arlington, Va. 22204.
Defense Logistics Agency, Defense General Supply Center.	Index of publications: Current listing of policy statements, regulations, handbook, manuals, directives, letters, supplements, procedures, and clause manual.	Commander, Defense General Supply Center, attention of DGSC-B, Richmond, Va. Reproduced copies $2. Treasurer of the United States.	Public Affairs Officer, Defense General Supply Center, Richmond, Va. 23297.
Defense Nuclear Agency	Index to administrative publications, May 10, 1976, with changes. Description: Administrative instructions covering manpower, personnel, international programs, planning and readiness, R. & D., logistics, maintenance, transportation, general administration, organization and function, security, administrative services, public information, legal and legislative policies, comptrollership, budgeting, appropriations accounting and control, auditing, and reports control.	Defense Nuclear Agency, Attention: PAO, Washington, D.C. 20305. $1 by xeroxing, $0.35 by printing run. Payable to: Treasurer of the United States.	
Do	Government reports index: Biweekly, annual cumulation. Description: Indexes DNA and other Government-sponsored research and development reports prepared by Federal agencies or their contractors.	National Technical Information Service, Springfield, Va. 22161. $125 annual subscription rate. Pa able to National Technical Information Service.	Director, Defense Nuclear Agency, Technical Library, Washington, D.C. 20305.
Defense Nuclear Agency, Armed Forces Radiobiology Research Institute.	Index of Armed Forces Radiobiology Research Institute (AFRRI) instructions, Nov. 10, 1975, with changes. Description: Listing of all AFRRI instructions in force.	Director, Armed Forces Radiobiology Research Institute, Attention: Administrative Officer, Defense Nuclear Agency, National Naval Medical Center, Bethesda, Md. 20014. 9 pages at $0.05 per page ($0.45). Checks payable to Treasurer of the United States.	
Defense Nuclear Agency, field command.	FCDNA instruction 5025.8J. Apr. 30, 1976 with changes. Description: Current index to field command instructions.	Field Command, Defense Nuclear Agency, Attention: Security Specialist, Support Directorate, Kirtland AFB, N. Mex. 87115. No charge.	
Defense Nuclear Agency, field command (FCDNA).	FCDNA instruction 5030.1D; Oct. 31, 1975. Description: Current index to FCDNA agreements, memoranda of understanding, and interservice agreements.	do	
Defense Nuclear Agency, field command, Johnston Atoll (FCJ).	FCJ instruction 5025.8D; Jan. 22, 1975 with changes. Description: Current index to FCJ instructions.	do	
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA).	Administrative Guidelines Manual. Jan. 1, 1973. Provides guidance to personnel responsible for regulatory decisions. Contains regulatory tolerances and guidance, and authorization for direct action by the field in areas of seizure, citation, and prosecution.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Supervisor, Public Records and Documents Center (HFC-18), Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do	Bureau of Foods Staff Manual Guide. Primarily concerned with the preparation of and review of documents within the Bureau of Foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $10. Checks payable to Food and Drug Administration.	Do.
Do	Bureau of Drugs staff manual guide. Primarily concerned with the preparation of and review of documents within the Bureau of Drugs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $21.50. Checks payable to Food and Drug Administration.	Do.
Do	Compliance Policy Guides. Provides a system for the issuing, filing, and retrieval of all official statements of FDA compliance policy.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Compliance Program Guidance Manual. Provides general guidance to the field as to how certain industries will be inspected, sampled, etc., during a fiscal year. Programs within this manual assign the number of inspections or samples to be done within a specific industry. Over 3,000 pages.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. 10 cents per page. (Suggest before ordering, to request transmittal checklist to ascertain programs needed.) Checks payable to Food and Drug Administration.	Do.
Do	Drug autoanalysis manual. Provides content uniformity test specifications in USP XVII and NFX II. Provides assurance of homogeneity within a single lot for a safe and effective drug supply. Specifications are for all tablet monographs where the active ingredient is present in low quantities (usually 50 mg or less).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	ERDO data code manual. Lists computer code information for programs management system project (PMS) which is used for reporting project information into the program oriented data system (PODS).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Do.	Field management directives. Used by the field staff to transmit FDA field policy in the areas of operations management, planning and budget guidance, program management, and State program management which gives policy information.	do.	Do.
Do.	Food additives analytical manual. Presents a compilation of analytical methodology for additives authorized for use. Compilation consists of methods for additives which can be used only as permitted in foods for human consumption and in feeds and drinking water of animals or treatment of food-producing animals.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.	Hazard Analysis and Critical Control Point—A System for Inspection of Food Processors. Explains the hazard analysis and critical control point procedure. Used for overseeing industry's processing practices in order to provide the consumer with the best assurances possible of quality control in processing foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $131.95. Checks payable to Food and Drug Administration.	Do.
Do.	Inspector Operations Manual. Provides FDA personnel with standard operating inspectional and investigational procedures. Contains instructions needed by operating inspectors and investigators. Contains authorities, objectives, responsibilities, policies, and guides.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do.	Inspector Training Manual. Basic training manual for food and drug inspectors and inspection technicians to provide the field with uniform approach to the administration of basic training	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.
Do.	Inspector's Manual for State Food and Drug Officials. Divided into 2 parts (1) Operations manual with information applicable to sample collection, inspections, and investigations in all fields of food and drug work; (2) commodities manual divided into specific types of food commodities. Manual for official use of State and local food and drug enforcement officers only.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $65. Checks payable to Food and Drug Administration.	Do.
Do.	Inspector's Technical Guide. To provide a medium for making all FDA inspectors aware of selected technical information not previously available on a broad scale.	Supervisor, Public Records and Documents Center (HFC-18) 5600 Fishers Lane, Rockville, Md. 20852. $5.20. Payable to Food and Drug Administration.	Supervisor, Public Records and Documents Center (HFC-18) Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do.	Laboratory Operations Manual. Provides day-to-day guide for laboratory directors and supervisors. Reflects the science advisor program and district laboratory relationships with BDAC field offices and disposition of consumer complaint samples.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $17.50. Checks payable to Food and Drug Administration.	Do.
Do.	Pesticide Analytical Manual. Brings together the procedures and methods used in the FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.	Quantity of contents compendium. Used to measure acceptable levels of shrinkage in food containers. Manual divided into 2 parts: (1) Contains procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents; (2) contains information on sampling where special techniques are required.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do.	Regulatory Procedures Manual. Provides guidance on regulatory policy and supporting processing procedures.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $85. Checks payable to Food and Drug Administration.	Do.
Do.	Staff Manual Guides—Organization and Delegations. Contains directives issued by the Food and Drug Administration to establish policy, organization, procedures or responsibilities in the administrative area. Used to issue continuing instructions or information and remains in effect until rescinded or superseded.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. Vol. I, $60; Vol. II, $60; Vol. III, $30. Checks payable to Food and Drug Administration.	Do.
Do.	Supervisory Inspectors Guide. Designed to furnish supervisory inspectors with guidelines to assist them in performing their duties.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $28.50. Checks payable to Food and Drug Administration.	Do.
Do.	Index to Administrative Staff Manuals. Current listing of all staff manuals with indexes and/or table of contents and costs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $20. Checks payable to Food and Drug Administration.	Do.
Do.	Statements of policy and interpretations adopted by FDA and not published in the FEDERAL REGISTER.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $5.90. Payable to Food and Drug Administration.	Do.
Department of Health, Education, and Welfare, National Institutes of Health (NIH).	NIH Freedom of Information Act index: from July 4, 1967-July 31, 1976, includes items in the following categories: (1) administrative manuals and memorandum, (2) animal resources and programs, (3) audio-visuals policy and criteria, (4) clinical center operations, (5) contracts policy and guides, (6) employee and committee member handbooks and manuals, (7) grants policy and guides, (8) library resources and guidelines, (9) minority programs, (10) patient policy, (11) research centers guides, (12) safety guides and permits, and (13) site visit formats.	In addition to copies of the NIH FOIA index maintained by HEW, NIH will make photocopies available if requests are forwarded to: Associate Director for Communications, NIH Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. Fees, as prescribed in 45 CFR 5.61, are 10 cents per page with the charge being made if the total amount exceeds $5. Checks payable to: DHEW—National Institutes of Health.	Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. (301)496-4461.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration.	The ADAMHA Freedom of Information Act Index is comprised of various ADAMHA component program guidelines, announcements, handbook listings, policy supplements, instructions, and manual materials. The index is divided to reflect the various ADAMHA components, namely the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, the National Institute of Mental Health, including Saint Elizabeths Hospital and the Office of the Administrator.	Copies of the ADAMHA Freedom of Information Act index are maintained by the HEW, FOI Officer, Room 5360, HEW North Bldg., 330 Independence Ave., SW., Washington, D.C. 20201. ADAMHA will also make copies available if requests are forwarded to: Director, OCPA, ADAMHA, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852. Fees are 10¢ per page with the charge being made if the total amount exceeds $5 and are payable to Treasurer of the United States.	Director, Office of Communications and Public Affairs, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	A written description of the general preventive medicine residency program, dated Apr. 29, 1976. Residency assignments, qualifications, appointments, and supervision, as outlined in this document.	Center for Disease Control, Attention: Assistant Director for Operations, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Assistant Director for Operations, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Memorandum dated Apr. 27, 1976. Subject: Hot line, 633-5313. This is the written procedure for handling reports of damage to packages of infectious materials.	Center for Disease Control, Attention: Director, Office of Biosafety, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Biosafety, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Staff publications booklet: An annual bibliographical listing of contributions made by the CDC staff to medical and scientific literature during the previous year.	Center for Disease Control, Attention: Director, Office of Information, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Information, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Minutes of meetings and annual reports of following public advisory committees: Coal Mine Health Research Advisory Committee, Safety and Occupational Health Study Section, Immunization Practices Advisory Committee, Medical Laboratory Services Advisory Committee.	Center for Disease Control, Attention: Director, Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Morbidity and mortality weekly reports. In addition to providing informational morbidity and mortality data on diseases, these reports prescribe policies and interpret policies relative to prevention of diseases as well as health requirements that are covered by regulations.	Center for Disease Control, Attention: Director, Bureau of Epidemiology, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Epidemiology, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final Report of the Drinking Water Disinfection ad hoc Advisory Committee, dated Mar. 1, 1977. Recommendations to the Secretary, Health, Education, and Welfare, the Assistant Secretary for Health, and the Director, Center for Disease Control, on the merits of chlorine and ultraviolet light as a means of disinfecting water in program areas over which the CDC has jurisdiction or technical responsibility.	do	Do.
Do	Annual report to Congress regarding smoking and health.	Center for Disease Control, Attention: Director, Bureau of Health Education, Atlanta, Ga., 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Health Education, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	"Current Items". This publication from the Bureau of Laboratories is directed generally to heads of State or local laboratories. The publication includes technical procedures and informational data.	Center for Disease Control, Attention: Director, Bureau of Laboratories, Atlanta, Ga. 30333. No chargefor 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE. Atlanta, Ga. 30333.
Do	National Institute for Occupational Safety and Health (NIOSH) policy memorandum, dated Sept. 11, 1974 on trade secret information.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857. No charge for 1 copy.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857.
Do	"NIOSH Policy Letter", dated Nov. 5, 1973 regarding reimbursement to an employer for financial loss (production time: pay) incurred as a result of a NIOSH research project.	do	Do.
Do	The President's report on occupational safety and health, annual report for 1974. This report covers programs of the Department of Labor; Department of Health, Education, and Welfare; and the Occupational Safety and Health Review Commission for calendar year 1974. It contains results of the 1st full year of occupational injury and illness survey.	do	Do.
Do	The Federal coal mine health program in 1974. This is a report of health activities under the Federal Coal Mine Health and Safety Act of 1969 NIOSH Publication No. 77-143	do	Do.
Do	The Division of Training, National Institute for Occupational Safety and Health, Center for Disease Control, announcement of courses that are available to the public.	do	Do.
Do	The National Institute for Occupational Safety and Health current intelligence bulletin. This current bulletin alerts members of the occupational health community, government, labor, and industry to new information on potential occupational health hazards.	do	Do.
Do	NIOSH Publications Catalog, 1970-1977. Lists availability of publications from the National Institute for Occupational Safety and Health. NIOSH Publication No. 77-207.	do	Do.
Do	Proposed interim program guidelines for venereal disease control, dated March 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Venereal disease review criteria, dated Dec. 10, 1971.	do	Do.
Do	Recommended treatment schedules for syphilis, dated 1976.	do	Do.
Do	Gonorrhea, CDC recommended treatment schedules, dated 1974.	do	Do.

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Do	Commentary on national strategies to control gonorrhea, dated July 1975.	do	Do.
Do	Updated guidelines concerning patients with penicillinase-producing *Neisseria gonorrhoeae* (PPNG), dated August 1977.	do	Do.
Do	Summary Report on Influenza Virus Vaccine Use, dated Feb. 7, 1977.	do	Do.
Do	Summary Report of Conference on Influenza Vaccine Activity for 1977-78, dated Mar. 21, 1977.	do	Do.
Do	Guidelines for assessing immunity levels, dated November 1973.	do	Do.
Do	Immunization Against Disease, 1972 handbook.	do	Do.
Do	Guidelines for application Immunization Project Grants, dated December 1977.	do	Do.
Do	Public Health Service recommendations for Counting Reported Tuberculosis Cases, dated January 1977.	do	Do.
Do	Preventive therapy of tuberculosis infection, dated February 1975.	do	Do.
Do	Memorandum dated Nov. 7, 1975, regarding duration of preventive therapy with isoniazid.	do	Do.
Do	Guidelines for prevention of TB transmission in hospitals, dated September 1974.	do	Do.
Do	Equipment and procedures for erythrocyte protoporphyrin (EP) analysis as a screening method for pediatric lead poisoning, dated Feb. 3, 1975.	do	Do.
Do	Urban rat survey—guidelines for classroom use and field training of inspectors who serve in community rodent control programs, dated March 1974.	do	Do.
Do	Urban rat control project grants program guidelines for applicants, dated 1975.	do	Do.
Do	Procedures for collecting rats for anticoagulant resistance evaluation, Urban Rat Control, dated Mar. 29, 1977.	do	Do.
Do	Guidelines for grant applications. Childhood lead poisoning control, dated Mar. 14, 1974.	do	Do.
Do	Increased lead absorption and lead poisoning in young children. A statement by the Center for Disease Control, dated March 1975.	do	Do.
Do	The "Training Bulletin," which is published every 18 mo. This document lists each of the headquarters, field, or home-study courses that are available through the auspices of CDC during that time period. Specific information is presented that identifies prerequisites for attendance and describes the nature of each course.	Center for Disease Control Attention: Director, Bureau of Training, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Training, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final denials, revocations, suspensions and limitations of licenses, and letters of exemptions to laboratories subject to the Clinical Laboratories Improvement Act of 1967.	Center for Disease Control, Attention: Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Facilities Engineering and Construction Manual, ch. CDC: 3-335, dated May 1, 1972. This issuance provides rules and regulations covering CDC buildings and grounds. It applies to CDC employees and also to visitors, solicitors, etc.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-57, dated Nov. 13, 1970. This issuance provides policy and procedures to CDC employees for claims including those against CDC or against CDC employees as a result of their official duties.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-1, dated Sept. 30, 1970. This issuance provides policy and procedures for conferences including those cosponsored by CDC and an organization other than a Federal agency.	do	Do.
Do	Administrative issuance. Manual Guide—ADP Systems No. CDC-1, dated Apr. 22, 1971. This issuance specifies the type of information for CDC organizations to furnish CDC computer systems office for determination as to whether a contract should be entered into with an outside source to perform the ADP services or whether the work can be performed within the Center.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74-9, dated June 20, 1974. This issuance specifies rates for the Center to pay for blood.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-75.3, dated May 12, 1972. This issuance specifies CDC delegations of authority for publication of advertisements, notices, or proposals.	do	Do.
Do	Administrative issuance. Manual Guide—Printing Management No. CDC-6, dated Nov. 5, 1969. This issuance provides CDC policies and procedures for procurement of CDC authored articles which are to be published in private journals and briefly mentions publishers' services, e.g., setting of type, sending proofs, etc.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administrative Issuance No. 406, dated Sept. 3, 1974. This issuance describes contents and documentation needed for research and technical services contract requests for NIOSH.	do	Do.

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Do.	Administrative issuance. Procurement Manual Subpart CDC: 3-3.6, dated Sept. 21, 1970. This issuance prescribes CDC policies and procedures for small purchases particularly through use of imprest funds, and briefly mentions vendors' role.	do.	Do.
Do.	Administrative issuance, CDC General Memorandum No. 77-13, dated Sept. 30, 1977. This issuance provides instructions to CDC employees for obtaining typewriter repair service and lists individual companies under contract to make repairs.	do.	Do.
Do.	Administrative issuance. CDC General Memorandum No. 74-1, dated Jan. 16, 1974. This issuance specifies CDC policies and procedures on unauthorized commitments and for obtaining approval for such commitments.	do.	Do.
Do.	Administrative issuance. Manual Guide—General Administration No. CDC-52, dated Mar. 12, 1973. This issuance provides policies and procedures for handling public inquiries to CDC during nonwork hours.	do.	Do.
Do.	Administrative issuance. Manual Guide—General Administration No. CDC-18, dated Mar. 6, 1969. This issuance provides CDC policies and procedures for obtaining clearance of CDC authored manuscripts, publications, etc., and includes policy on responding to requests from the press, etc.	do.	Do.
Do.	Administrative issuance. CDC General Memorandum No. 72-3, dated Feb. 9, 1972. This issuance provides policies and general guidelines to CDC employees on giving assurances of confidentiality in obtaining information from the public.	do.	Do.
Do.	Administrative issuance. Manual Guide—Personal Property Management No. CDC-2, dated Apr. 17, 1969. This issuance provides CDC policies and procedures for producing, maintaining, shipping, and storing exhibits and includes procedures for production of exhibits by commercial contractors.	do.	Do.
Do.	Administrative issuance. Manual Guide—Safety Management No. CDC-19, dated Mar. 18, 1974. This issuance provides policy to CDC employees for distribution of cultures of microbial agents and of vectors to non-CDC persons.	do.	Do.
Do.	Administrative issuance. Manual Guide—Safety Management No. CDC-2, dated Dec. 15, 1975. This issuance provides policy on the need for and use of hazard warning signs that applies to CDC employees and also to visitors.	do.	Do.
Do.	Administrative issuance. Manual Guide—Safety Management No. CDC-3, dated June 18, 1973. This issuance provides policies on and procedures for handling compressed gases in cylinders. It applies to CDC employees and also certain policies and procedures apply to vendors.	do.	Do.
Do.	Administrative issuance. Personnel Guides for Supervisors, chapter IV, CDC Guide 7-2, dated Mar. 12, 1963, but still current. This issuance provides CDC policies and procedures for handling complaints on employee indebtedness.	do.	Do.
Do.	Administrative issuances. Manual Guide—General Administration No. CDC-5, dated Apr. 8, 1971 and National Institute for Occupational Safety and Health Administrative Issuance No. 2, dated Mar. 4, 1974. These issuances provide policies and procedures for making CDC and NIOSH facilities available to guest researchers.	do.	Do.
Do.	Administrative issuance. Manual Guide—General Administration No. CDC-61, dated Apr. 26, 1973. This issuance provides CDC policies and procedures for providing to students work experiences which relate to the CDC mission and to the educational objectives of the students.	do.	Do.
Do.	Administrative issuance. National Institute for Occupational Safety and Health unnumbered memorandum, dated Mar. 4, 1974. This issuance provides NIOSH policy on loan of property to non-Federal persons or institutions.	do.	Do.
Do.	Administrative issuances. Manual Guide—General Administration No. CDC-11, dated June 8, 1973 and National Institute for Occupational Safety and Health policy memorandum, dated June 25, 1973. These issuances provide policies and procedures for the protection of the individuals who are participating or involved in research investigations of the Center and of NIOSH, respectively.	do.	Do.
Do.	Administrative issuance. Manual Guide—Travel CDC-10, dated Dec. 26, 1972. This issuance provides CDC policy and procedures for employees renting automobiles for official travel and mentions services provided by the car rental contractors and the conditions of the contracts.	do.	Do.

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Do.	Administrative issuances. Manual Guide – Travel No. CDC-2 dated Jan. 14, 1974 and Correspondence Manual Chapter 10-40, dated Oct. 1, 1974. These issuances provide instructions to CDC employees for making reservations on common carriers and for picking up the tickets. They list the airlines and their telephone numbers.	do.	Do.
Do.	Administrative issuance. Manual Guide—General Administration No. CDC-63, Privacy Act, dated Nov. 23, 1976. This issuance provides to CDC employees guidance on carrying out requirements of the act.	do.	Do.
Do.	Administrative issuance. CDC general memorandum No. 75-10, Freedom of Information Act, dated July 25, 1975. This issuance provides general information to CDC employees on major provisions of the act, procedures for responding to requests for information under the act, and brief data to the CDC employees on the Privacy Act.	do.	Do.
Do.	Administrative issuance. CDC general memorandum No. 75-2, civil defense, dated April 2, 1975. This issuance provides information on the civil defense capacity and equipment of the CDC facilities in the Atlanta area that are officially designated to be used as public shelter areas under the national fallout shelter program.	do.	Do.
Do.	Administrative issuance. CDC unnumbered memorandums, parking at Clifton Rd. facilities, dated July 14, 1975 and Jan. 20, 1976. These issuances provide policy for CDC employees and visitors parking at the Clifton Rd. facilities, Center for Disease Control.	do.	Do.
Do	Administrative issuance. CDC unnumbered memorandum, directory of licensed day-care facilities in the Metropolitan Atlanta area, dated Mar. 15, 1976. This issuance provides a listing of these facilities.	do.	Do.
Do.	Administrative issuance. CDC unnumbered memorandum, injury compensation, dated Sept. 15, 1975. This issuance provides procedures for CDC employees to follow to document on-the-job traumatic injuries, including submission of reports from attending physicians.	do.	Do.
Do.	Administrative issuance. Manual guide—general administration No. CDC-8, soliciting, vending, and displaying or distributing commercial advertising within CDC, dated Apr. 23, 1975. This issuance provides policy for soliciting, vending, and commercially advertising on property occupied by CDC.	do.	Do.
Do.	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-2, commercial employment offices, dated Jan. 7, 1976. This issuance provides policy on using commercial employment offices for recruiting personnel.	do.	Do.
Do.	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-9, dated Feb. 26, 1976. This issuance provides policies, responsibilities, and procedures for the selective placement program for handicapped employees and disabled veterans.	do.	Do.
Do.	Administrative issuance. National Institute for Occupational Safety and Health Administration, issuance No. 6, dated Apr. 15, 1976. This issuance provides policies and procedures for keeping interested governmental, labor, and management groups informed on the initiation and progress of NIOSH field studies.	do.	Do.
Do.	Administrative issuance. National Institute for Occupational Safety and Health Administration issuance No. 8, dated Oct. 30, 1975. This issuance provides procedures for maintenance of minutes of NIOSH meetings with representatives of nongovernmental groups.	do.	Do.
Do.	Recommendations of the Public Health Service Advisory Committee on Immunization Practices, such as: BCG vaccines, cholera vaccine, diphtheria and tetanus toxoids and pertussis vaccine, immune serum globulin for protection against viral hepatitis, perspectives on the control of viral hepatitis, type B, influenza vaccine, measles vaccine, meningococcal polysaccharide vaccines, mumps vaccine, plague vaccine, poliomyelitis vaccines, rabies, rubella vaccine, smallpox vaccine, typhoid vaccine, typhus vaccine, yellow fever vaccine.	Center for Disease Control, Attention: Director, General Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, General Services Office, 1600 Clifton Rd., NE., Atlanta, Ga. 30333
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration HEW/PHS/HRA).	Health Resources Administration index of policy documents as required by Public Law 90-23 (Freedom of Information). July 1, 1973, to Oct. 1, 1976. The HRA FOIA index is a listing of the following HRA documents: HRA policy, information, and instruction memoranda; supplements and circulars to the Federal personnel and HEW staff manuals; Federal regulations; delegations of authority; organization and functions statements; programmatic circulars, memoranda, instructions, notices, guides, guidelines, and operating manuals used by HRA components.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Check payable to DHEW-Health Resources Administration.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1620

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Department of Health, Education, and Welfare, Public Health Service, Health Services Administration (HEW/PHS/HSA).	HSA Freedom of Information Act (FOIA) Index: March 1975 to June 30, 1977. The HSA, FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of June 30, 1977. The respective bureau level indexes are listed as follows: OA—OFFICE OF THE ADMINISTRATOR OCPA—Public Affairs Management System Manual; OPEL—HSA forward plan, fiscal year 1979-83; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to DHEW manuals; HSA Circulars; OM/OFS—policy decisions and opinion. BMS—BUREAU OF MEDICAL SERVICES Division of Hospitals and Clinics Operations Manual; BMS supplements to DHEW manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; BMS circulars; Contract Physician's Guide; Division of Hospitals and Clinics circular memoranda. "Emergency Medical Service Systems Program Guidelines"; "HMO Policy Management Bulletin". IHS—INDIAN HEALTH SERVICES IHS circulars; IHS supplements to DHEW manuals; IHS Operations Manual; General Counsel opinions. BCHS—BUREAU OF COMMUNITY HEALTH SERVICES BCHS administrative guide system; BCHS Operations Manual.	Office of Communications and Public Affairs, DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md. 20857. Checks payable to DHEW/Public Health Service. Mail to HSA Collection Officer, DHEW/PHS/HSA, Room 16-36, 5600 Fishers Lane, Rockville, Md. 20857. Fees charged for research and reproduction of information is based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E).	Office of Communications and Public Affairs DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md.
HEW/PHS/Office of Administrative Management.	Index to the PHS Manual for financial evaluation of Public Health Service awards, continuous from July 1, 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees as prescribed in 45 CFR 5.61 are 10¢ per page, with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.	A guide to institutional cost sharing agreements for research grants and contracts, supported by the Department of Health, Education, and Welfare, continuous from July 1974.	Copies may be obtained from Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. No charge.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.	PHS procurement regulations: policies and procedures which implement and supplement the DHEW procurement regulations and the Federal procurement regulations, continuous from May 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees as prescribed in 45 CFR 5.61 are 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service.	Copies available: ASC Forms and Publications Services Center, OAM/PHS, 12100 Parklawn Dr., Rockville, Md. 20857. Additional information: Division of Grants and Contracts ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.	PHS grants policy statement; comprehensive policy document for use by PHS grantees, continuous from July 1974.	GPO, 90 cents, Superintendent of Documents (Stock No. 1720-00055).	Superintendent of Documents, GPO, Washington, D.C. 20407.
Do.	Index to PHS supplements to HEW Grants Administration Staff Manual; supplementation and implementations to HEW manual; continuous from January 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees are prescribed in 45 CFR 5.61, as 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, PHS.	Division of Grants and Contracts ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.	Tables of contents to PHS supplementation of HEW staff manuals containing authorities, policies, and procedures in the following areas: Emergency, forms management, general administration, organization, ADP systems management, records management, safety management, security, facilities engineering and construction, and procurement.	Director, Division of Directives and Authorities Management, OOMS/OAM/PHS, Room 17-81, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees as described in 45 CFR 5.61, are 10 cents per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service, Office of the Assistant Secretary for Health.	Director, Division of Directives and Authorities Management, OOMS/OAM/PHS, Room 17-81 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do.	Table of contents to PHS Commissioned Corps Personnel Manual containing authorities, policies, and procedures in that subject area.	do.	Chief, Employment Operations Branch, CPOD/OPM/OAM/PHS, Room4A-18, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do.	Table of contents to PHS supplementation of the Federal Personnel Manual containing authorities, policies, and procedures in that subject area.	do.	Director, Office of Personnel Management, OAM/PHS, Room 18A-55, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do.	Table of contents to Parklawn guidelines: a series of internal operating guides providing operating instructions and procedures of a continuing nature for occupants of the Parklawn Bldg., Rockville, Md., with regard to operations of the Administrative Services Center, Office of Administrative Management. Guidelines include such subjects as procedures for operation and use of official conference rooms; apportionment and assignment of parking spaces; official hours; and conservation of paper in copying, duplicating, and printing, Parklawn Bldg.	Executive Officer, Administrative Services Center, OAM/PHS, room 5-77, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees, as prescribed in 45 CFR 5.61, are 10c per page with the charge being made if the total amount exceeds $5. Checks payable to Department of Health, Education, and Welfare, Public Health Service, Office of the Assistant Secretary for Health.	Executive Officer, Administrative Services Center, OAM/PHS, Room 5-77 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.

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Department of the Interior, Bonneville Power Administration.	BPA Manual Index dated Nov. 5, 1975, 33 pages. Policy, procedural, and directives material indexed by subject and BPA Manual chapter number.	The public may review the index, obtain a copy of the index without charge, or secure further information concerning the contents of the records listed by contacting Bonneville Power Administration's Public Information Office, 1002 NE. Holladay St., Portland, Oreg. 97232, or the Washington, D.C. office, 5600 Interior Bldg., Washington, D.C. 20240.	Bonneville Power Administration Offices listed in previous column or BPA Area and District Offices at the following: 919 NE. 19th Ave., Portland, Oreg. 97208; 415 First Ave. N., Seattle, Wash. 98109; U.S. Courthouse, Spokane, Wash. 99201; West 101 Poplar St., Walla Walla, Wash. 99362; U.S. Federal Bldg., 211 E. 7th St., Eugene, Oreg. 97401; Highway 2E, Box 758, Kalispell, Mont. 59901; U.S. Federal Bldg., 301 Yakima St., Wenatchee, Wash. 98801; and 531 Lomax St., Idaho Falls, Idaho 83401.
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist—July 6, 1976. Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	In accordance with fee schedule in 43 CFR 2, App. A. Bureau of Mines.	Chief, Organization and Management Staff, Columbia Plaza Office Bldg., 2401 E St. NW, Washington, D.C. 20241.
Department of the Interior, Bureau of Reclamation.	Reclamation Instructions Index—Apr. 1, 1974: Subject listing of current instructions pertaining to Bureau of Reclamation organization and delegations of authority, policy and procedures, and detailed instructions on limited technical subjects.	Division of Management Support E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. No charge.	Division of Management Support, E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. Phone: 303-234-2081.
	Guidelines—Task Force Report on Water Marketing Index.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems, Interior Department, Washington, D.C. 20240. No charge.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems Interior Department, Washington, D.C. 20240.
Department of Labor, Bureau of International Labor Affairs.	Trade Adjustment Assistance: Cumulative Summary Apr. 3, 1975–May 31, 1977	Bureau of International Labor Affairs. $.10 per page.	ILAB, New Department of Labor Building 200 Constitution Ave. NW., Washington D.C. 20210.
Department of Labor, Labor-Management Services Administration.	Reporting and disclosure	Labor-Management Services Administration. $.10 per page.	LMSA, Information Officer, Room N5637, New Department of Labor Bldg.
Department of Labor, Wage and Hour Division.	Field Operation Handbook, volume III through June 1, 1977.	Wage and Hour. $.10 per page	Office of the Administrator, Wage and Hour Division, Room S3502, New Department of Labor Bldg.
Department of Transportation, Federal Highway Administration.	Opinions and final orders of the Federal Highway Administration in regard to the regulation of toll bridges- 1968-77; 1 page listing of opinions and final orders regarding regulation of toll bridges; issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590.
Do	Cease and desist and driver disqualification final orders by the Federal Highway Administrator; 1969–77; 8-page listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier, and date notice of investigation was mailed.	do	Do.
Do	Cross reference index of current Federal Highway Administration directives as of December 30, 1977. The index is alphabetical by subject. Within each subject applicable Federal Highway Administration orders, notices, and manuals are identified (in some cases manuals may be also identified by the applicable volume or other subordinate breakdown). The index is computerized and updated quarterly.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. Price per copy: $10.86. Checks payable to: The Treasury of the United States.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington D.C. 20590; Federal Highway Administration Regional Offices. (For location see 49 CFR pt. 7); Federal Highway Administration Division Offices. (For location see 49 CFR pt. 7.)
Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.	The Director, Bureau of Alcohol, Tobacco, and Firearms (ATF) has determined that publication in the FEDERAL REGISTER of the ATF Index of Materials required by the Freedom of Information Act is unnecessary and impracticable for the reason that the Index is changing continually and that items listed are of interest to relatively few potential users. Copies of the index may, however, be obtained upon request to the Office of the Assistant to the Director (Disclosure), Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226 at a cost of $2. The index is entitled, "Index of Materials Required by the Freedom of Information Act, ATF P 1200.3." The index covers the period of July 1967–June 1977 and consists of Final Opinions and Orders Made in the Adjudication of Cases, Statements of Policy and Bureau Directives, and the latest listing of ATF publications.	Office of the Assistant to the Director (Disclosure), Room 2232, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C 20226. Price $2. Make check payable to the Bureau of Alcohol, Tobacco, and Firearms.	Freedom of Information Act Reading Room, Room 1315, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Ave. NW., Washington, D.C. 20226. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS: North Atlantic Regional Office, 6 World Trade Center, Room 620, New York, N.Y. 10048. Mid-Atlantic Regional Office, Room 310, 2 Penn Center Plaza, Philadelphia, Pa. 19102. Southeast Regional Office, 3835 Northeast Expressway, Room 201, Atlanta, Ga. 30340. Central Regional Office, Federal Office Bldg., Room 6510-A, 550 Main St., Cincinnati, Ohio 45202. Midwest Regional Office, 230 S. Dearborn St., 15th floor, Chicago, Ill. 60604. Southwest Regional Office, Main Tower, 1200 Main St., Room 355, Dallas, Tex. 75202. Western Regional Office, 525 Market St., 34th floor, San Francisco, Calif. 94105.
Department of the Treasury, Customs Service.	CSA (Customs Simplification Act) Index (revised) index to letters and letters relating to Customs Simplification Act, from 1956 forward.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229; Price: $1.75. Checks payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229.
	Synopsis of Decisions on the Duty Assessment Process, 1972; administrative and court decisions and rulings concerning duty assessment process.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229; Price: $3. Checks payable to: U.S. Customs Service.	Do.
	Customs Forms Catalog; Customs and other agency forms currently available from the Customs Service, July 1975.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: Shelf stock, $2.50; reproduced copies $6.50. Shelf stock will be used while supply lasts. Checks payable to U.S. Customs Service. Also, available at District Offices of the Customs Service.	Do.
	KWIC (Key Word in Context) Index, June 1975; current Customs Service circular letters.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: $1. Checks payable to: U.S. Customs Service.	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Legal Keyword Precedent Directory. The directory is a listing by selected keywords of all classification rulings issued since early 1975 that affect a substantial volume of imports or transactions or are otherwise of general interest or importance and of all published classification rulings issued since Aug. 31, 1963, including classification decisions of the Customs Courts, Treasury Decisions, and classification rulings circulated within the Customs Service by the Customs Information Exchange and the Office of Regulations and Rulings. The directory also contains limited information on decisions and rulings pertaining to entry, value, drawback, marking, country of origin, and vessel repairs. The Legal Keyword Precedent Directory is maintained on microfiche and is continually updated.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings,* U.S. Customs Service, Washington, D.C. 20229. Price: Duplicate microfiche are available at a cost of $0.15 each and are available only in sets; a set presently contains 32 microfiche. Payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229 and at regional offices of the Customs Service.
Department of the Treasury, Office of the Secretary.	Index of Selected Records; July 1967 to December 1977; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, $1.50, Treasury of the United States.	Treasury Department Library, Room 5010 Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
(U.S.) Arms Control and Disarmament Agency.	Index to notices, instructions, regulations, and other ACDA records.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451. No charge.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C 20451.
Civil Service Commission (CSC).	Index to Civil Service Commission information. Period covered: February 1975 to November 1977. A listing of policy and nonpolicy publications and information systems arranged alphabetically by title and subject.	Distribution Unit, Room B-431, U.S. Civil Service Commission, 1900 E St. NW., Washington, D.C. 20415. Free.	Commission Library or any Commission office, including regional and area offices.
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of additions and deletions to the procurement list. August 1971–December 1977.	Order from: Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 N. 14th St., Suite 610, Arlington, Va. 22201. Price: 10¢ per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped. Attention: Freedom of Information Officer.
Consumer Product Safety Commission.	Index: Final Opinions and Orders; Statements of Policy and Interpretations; Administrative and Staff Manual and Instructions.	Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; No charge.	Office of the Secretary, Consumer Product Safety Commission, 1750 K St. NW., Washington, D.C. 20207.
Council on Environmental Quality	*Memoranda to the heads of all Federal agencies:*		
Do	(i) CEQ memo to heads of agency on revised guidelines, Apr. 23, 1971.	Available from CEQ	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7965.
Do	(ii) CEQ memo to agency NEPA liaison on agency NEPA procedures May 14, 1971.	do	Do.
Do	(iii) CEQ memo to agency NEPA liaison on inclusion of cost-benefit analyses, May 24, 1971.	do	Do.
Do	(iv) CEQ memo to agency NEPA liaison on *Calvert Cliffs* decision, July 30, 1971.	do	Do.
Do	(v) CEQ memo to agency NEPA liaison on extension of deadline on NEPA procedures, Aug. 5, 1971.	do	Do.
Do	(vi) CEQ memo to heads of agencies on agency NEPA procedures, Sept. 23, 1971.	do	Do.
Do	(vii) CEQ memo to heads of agencies on agency NEPA procedures, Nov. 2, 1971.	do	Do.
Do	(viii) CEQ memo to agency NEPA liaison on outline of issues in agency NEPA procedures Dec. 3, 1971.	do	Do.
Do	(ix) CEQ memo to agency NEPA liaison on extracts from leading NEPA court decisions, Dec. 3, 1971.	do	Do.
Do	(x) CEQ memo to agency NEPA liaison on cumulative list of environmental impact statements, Dec. 23, 1971.	do	Do.
Do	(xi) Revised CEQ guidelines on environmental impact statements prepared under section 102(2)(C) of the National Environmental Policy Act, Apr. 23, 1971.	do	Do.
Do	(xii) Recommendations for improving agency NEPA procedures, May 16, 1972.	do	Do.
Do	(xiii) Revision of agency procedures for preparation of environmental impact statements. Aug. 2, 1972.	do	Do.
Do	(xiv) NTIS and the public availability of environmental impact statements under NEPA, Mar. 1, 1974, 102 Monitor vol. 4, No. 2, March 1974, p. 23.	do	Do.
Do	(xv) Council advisory memorandum #1 on delegation by Federal agencies of responsibility for preparation of EIS's, 102 Monitor.	do	Do.
Do	(xvi) CEQ publications list, Apr. 30, 1976	do	Council on Environmental Quality, Attention: Freedom of Information Officer, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-1415.
Do	(xvii) CEQ memo to heads of agencies on SCRAP decision Nov. 26, 1975.	do	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7965.
Do	(xviii) CEQ memo to heads of agencies on environmental impact statements Feb. 10, 1976.	do	Do.
Do	(xix) CEQ position paper "Pollution Control and Employment" February 1976.	do	Council on Environmental Quality, Attention: Dr. E. H. Clark, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-6162.
Do	(xx) CEQ memo to heads of agencies on prime agricultural lands Aug. 30, 1976.	do	Council on Environmental Quality, Attention: General Counsel, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7965.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	(xxi) CEQ memo to heads of agencies on NEPA Supreme Court decisions Sept. 16, 1976.	do	Do.
Do	(xxii) CEQ memo to heads of agencies on NEPA requirement to projects abroad.	do	Do.
Do	(A) Memorandum of implementation of the agreement between the United States and the U.S.S.R. on cooperation in the field of environmental protection, May 1972. 102 Monitor vol. 2, No. 9, October 1972.	Available by Ordering Cited Copy of the 102 Monitor from GPO.	Council on Environmental Quality, General Counsel's Office, 722 Jackson Place NW., Washington, D.C. 20006 (202) 382-7965.
Do	(B) 20 questions and answers explaining NEPA Sec. 102, environmental impact statement process, 102 Monitor, vol. 1, No. 10, November 1971, p. 1.	do	Do.
Do	(C) Coal surface mining and reclamation study, 102 Monitor, vol. 3, No. 2, March 1973 p. 62.	do	Do.
Do	(D) Economic impact of environmental programs, 102 Monitor vol. 4, No. 10, November 1974, p. 3.	do	Do.
Do	(E) Environmental programs and employment, 102 Monitor vol. 5, No. 4, May 1975.	do	Do.
Do	(F) Council advisory memorandum (memo on) 102 Monitor, vol. 5, No. 3, April 1975.	do	Do.
Do	(G) Council advisory memorandum #2 on application of NEPA to enforcement of the antitrust laws by the FTC, 102 Monitor, vol. 5, No. 2, March 1975, p. 13.	do	Do.
Do	(H) CEQ memo to heads of agencies on the Safe Drinking Water Act of 1974, Nov. 19, 1976.	Available from CEQ	Do.
Energy Research and Development Administration.	ERDA headquarters reports: Cumulative index issued monthly starting Jan. 19, 1975. Includes report number, corporate author, and subject indexes. Includes reports prepared by individual headquarters authors, task forces and study groups, and environmental statements covering ERDA programs and facilities.	ERDA Library and Public Document Room, Washington, D.C. 20545. Copies made available at $0.08 per page. Payable to: Energy Research and Development Administration.	ERDA Library and Public Document Room, Room 1223, 20 Massachusetts Ave. NW., Washington, D.C. 20545. 202-376-9015.
Do	ERDA manual table of contents: Covers directives; procurement instructions and regulations; and property management regulations, instructions, and bulletins. A cumulative table of contents is issued semiannually listing ERDA issuances and those AEC issuances still in effect.	do	Do.
Do	Indexes to active and completed ERDA prime contracts arranged by (1) name of contractor, (2) work location, and (3) type of contract within field office.	do	Do.
ERDA, Office of the General Counsel.	ERDA waiver determinations. Lists of waiver requests on which a final determination was made during 1975 and 1976. Includes determination numbers of advance waivers and identified inventions, and names of firms or inventors.	do	Do.
ERDA, Board of Contract Appeals (BCA).	Decisions and orders for the periods Jan. 19, 1975 to June 30, 1977, including indexes.	do	Do.
Do	Atomic Energy Commission Reports: Oct. 1956-Jan. 1975, Vols. 1-8: Contains the BCA decisions and orders and indexes.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.	Do.
Equal Employment Opportunity Commission.	Index to Commission Decisions Unpublished	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. Price: 25¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. 20506.
Do	Index to Commission Decisions, Published		Librarian or district office addresses at 29 C.F.R. 1610.4.
Do	Index to Equal Employment Opportunity Commission Orders:	See above. Price: 15¢; Payable to: U.S. Treasurer.	Do.
Do	Index to Compliance Manual (Table of Contents).	See above. Price: $3. Payable to: U.S. Treasurer.	Do.
Do	Index to General Counsel Manual (Table of Contents).	See above. Price: 45¢; Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St. NW, Washington, D.C. 20506.
Farm Credit Administration.	Index of FCA Information Materials; Jan. 1-Dec. 31, 1977; (1) Publications (those available in supply); (2) news releases issued since Jan. 1, 1972; (3) biographies of FCA officials; (4) speeches by FCA officials; (5) FCA regulations and clarification letters; (6) research reports; (7) FCA administrative and Personnel Handbook; (8) Directory of the FCA and Farm Credit Districts: (9) Monthly statistics on farm credit bank lending (list of tables); (10) FCA orders; and (11) FCA organization charts.	Information Division, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578. Payable to: Farm Credit Administration. Single copies free of charge for items 1, 3, 4, 6, 8, and 11. Copies of all others available at 10¢ per page.	Mr. Roland W. Olson, Director of Information, Farm Credit Administration, Washington, D.C. 20578.
Federal Power Commission	Supplement to Index of FPC Actions (Apr. 1, 1977-June 30, 1977).	Federal Power Commission, Office of Public Information, 825 North Capitol St. NE. Washington, D.C. 20426.	Federal Power Commission, Office of Public Information, 825 North Capitol St. NE. Washington, D.C. 20426.
Federal Reserve System, Board of Governors.	Card index to Board actions of the type that are made available to the public under the Freedom of Information Act from July 4, 1967 to date.		May be inspected in Freedom of Information Office, Room B-1228, Main Board Bldg., 20th and C Sts. NW.
Do	Microfilm copies of above index covering period July 4, 1967 to Dec. 31, 1976. Subsequent years to be microfilmed.	Order from Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Checks payable to Board of Governors of the Federal Reserve System. $13.25 a roll.	Freedom of Information Office, Room B-1228, Main Board Bldg., 20th and C St. NW., (202) 452-3684.
Do	Hard copy bound index for:		
	1967	do.[1]	Do.
	1968-74	do.[2]	Do.
	Copies for additional years in preparation.		
Do	Individual copy of the card index	Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Charge not to exceed the direct cost of duplication.	Do.
Do	Weekly index published and distributed to the public providing identifying information as to any matter issued, adopted or promulgated by the Board from the first week in January 1975 to date (H.2 release).	Publications Services, Division of Administrative Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (Mailing list maintained; no charge for current copies.)	Do.

See footnotes at end of table.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Federal Trade Commission	Bound volumes of all FTC decisions, volumes 1-89, initial decisions of administrative law judges; Commission decisions in adjudicative proceedings; significant orders and opinions; consent orders; advisory opinions; and compliance advice; from March 1915 to June 1977. (Index of contents in each volume.)	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents, $9-17 each (some volumes out of print).	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580, 202-523-3598. Copying charge $.10 per page (assessed only when 100 or more pages are duplicated).
Do	Bound volume of Advisory Opinions, June 1962 to December 1968, index included, containing requests for advice concerning proposed actions and Commission responses. (Advisory Opinions also included in volumes of decisions listed above.)	Same as above. $2.25 each	Do.
Do	Enforcement statements pertaining to a specific industry or Commission policy, continuous from July 1967.	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580, 202-523-3598. Checks: Treasury of the U.S. Copying charge $.10 per page (assessed only when 100 or more pages are duplicated).	Do.
Do	Trade Regulation Rules, interpretive rules and general statements of policy with respect to unfair or deceptive acts or practices in or affecting commerce, index for specific rulemaking proceedings, continuous from July 1967.	do	Do.
Do	Application for reimbursement for participation in trade regulation rulemaking proceedings, continuous from 1976.	do	Do.
Do	Current operating and administrative manuals; statements of general procedures and policies, rules of practice for adjudicative proceedings, nonadjudicative procedures, and miscellaneous rules; governing statutes.	do	Do.
Do	Freedom of Information Act access requests and responses, continuous from March 1973.	do	Do.
Do	Letters closing investigations after facts disclosed indicate corrective action not required in the public interest, continuous from March 1974.	do	Do.
Do	Applications from former members and employees to appear or participate in a proceeding or investigation, and Commission's responses, continuous from January 1969.	do	Do.
Do	Staff opinion letters issued by staff in response to requests for advice, continuous from May 1962.	do	Do.
Do	Index of proceedings in adjudicative matters pending before the Commission, current cases.	do	Do.
Do	Petitions submitted requesting action by the Commission, continuous from 1971.	do	Do.
Do	Index to publications available, including pamphlets, buyers' guides, industry guides, reports (e.g., quarterly financial, economic and staff in specific matters, annual, et cetera).	do	Do.
Do	News releases and other public announcements, continuous from 1969.	do	Do.
Do	Motions to limit or quash investigational subpoenas, continuous from June 1962.	do	Do.
Do	Motions to limit or quash orders requiring access or requiring a special report or answers to specific questions, continuous from November 1975.	do	Do.
Do	Announcement of meetings and summaries of matters discussed under the Sunshine Act, continuous from March 1977.	do	Do.
Do	Proposed consent orders, analyses, and relevant documents submitted by respondent or proposed respondent, during 60-day comment period.	do	Do.
Do	Outside contacts, correspondence, meetings information associated with Commission proceedings, continuous from April 1974.	do	Do.
Do	Current record of final votes of each member of the Commission in every agency proceeding, continuous from 1973.	do	Do.
Do	Assurances of voluntary compliance submitted by proposed respondents under investigation, 1965 to 1974.	do	Do.
General Services Administration (GSA).	GSA Freedom of Information Act index: July 4, 1967 through Dec. 30, 1977. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect a member of the public.	GSA, Director of Information (AV), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below. Central Office Library, 18 and F Sts. NW., Room 1033, Washington, D.C. 20405. Business service centers: Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109. Region 2: 26 Federal Plaza, New York, N.Y. 10007. Region 3: 7 and D Sts. SW., Washington, D.C. 20407. Region 4: 1776 Peachtree St. NW., Atlanta, Ga. 30309. Region 5: 230 South Dearborn St., Chicago, Ill. 60604. Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131. Region 7: 819 Taylor St., Fort Worth, Tex. 76102. Region 8: Building 42, Denver Federal Center, Denver, Colo. 80225. Region 9: 525 Market St., San Francisco, Calif. 94105. Region 10: GSA Center, Auburn, Wash. 98002.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do	Brochure: Falcon Dam and powerplant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.
Do	Water Bulletins: Containing data for 1 yr, covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, sources of river flow, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas—for years 1931 through 1975.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902. Price: $3.25 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC, Room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902.
Do	Water Bulletins: Containing data for 1 yr covering flow of Colorado River and other western boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1974.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above). Price: $2 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations U.S. Section, IBWC (same address as shown above).
Marine Mammal Commission	Marine Mammal Commission Recommendations; calendar years 1974-76; list of recommendations made to Federal departments and agencies pursuant to 16 U.S.C. sec. 1402(a), arranged in chronological order, and listing the agency addressed and the subject matter of the recommendation.	Executive Director, Marine Mammal Commission, 1625 I St. NW., Washington, D.C. 20006; no charge.	Executive Director, Marine Mammal Commission, 1625 I St. NW., Washington, D.C. 20006.
National Science Foundation (NSF).	Index of NSF circulars, manuals, and bulletins in effect as of December 31, 1977. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars—convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals—provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins—used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. $0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550.
Do	Reviewer/panelist, alphabetical listing as of Aug. 2, 1977. Listing contains name, State, and institution of individuals who have reviewed proposals for the National Science Foundation for the period indicated above.	do	Do.
Do	Index of Office of the Director staff memoranda (O/D) in effect, as of December 31, 1977. A numerical index, by calendar year, of issuances used by the Director and Deputy Director of the National Science Foundation to implement policy and to communicate with the staff on subjects of their choice.	do	Do.
Do	Numerical index of NSF important notices in effect as of Mar. 31, 1977. An index of notices serving as the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. The notices convey important announcements of NSF policies and procedures or concerning other subjects determined to be of interest to the academic community and to other selected audiences.	do	Do.
Do	Reference file of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	do	Do.
Do	Index of NSF regulations promulgated in the Code of Federal Regulations under title 41, public contracts, property management; and title 45, public welfare. A listing, by subject title, of current Foundation regulations with a brief description of the content of each.	do	Do.
Do	Publications of the National Science Foundation. An index by topical classification, as of November 1976, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 76-43.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) Room 531, 1800 G St. NW., Washington, D.C. 20550.
Do	NSF guide to programs. A composite listing of summary information about NSF support programs, as of September 1976. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 76-33.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis; or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038-000-00294-5. Unit price: $1.35.	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, Apr. 4, 1967 through Dec. 31, 1977. Chronological listing (by date of service) of decisions after hearings on appeal involving airman or air safety certificates.	Copies of indexes and checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Fees for d iplication and instructions for payment will be included in letter of acknowledgment to requester.)	Chief, Public Inquiries Section, Room 806-B, National Transportation Safety Board,806
	Safety enforcement decisions, May 18, 1967 through Dec. 31, 1977. Alphabetical and numerical listings of EA and EM final opinions/orders of the Board on appeal from initial decisions of NTSB administrative law judges or Commandant, U.S. Coast Guard.		
	NTSB directives checklist as of Jan. 3, 1977. Numerical listing (by NTSB order No.) o. staff operations directives.	do	Do.
Office o Management and Budget (OMB).	Index to BOB/OMB bulletins, July 4, 1967 to Dec. 31, 1977. Keyword index of OMB bulletins.	Office of Management and Budget. No fee	Velma N. Baldwin, Assistant to the Director for Administration.
Do	Office of Management and Budget circulars Index, 1948 to Dec. 31, 1977. Arranges current OMB circulars by keywords in the titles of the directives and by a limited number of broader captions.	do	Do.
Do	Index to Office of Management and Budget manual. All those sections currently in effect through Dec. 31, 1977. Arranged by keywords in the titles.	do	Do.
Do	Rescinded Office of Management and Budget circulars, through Dec. 31, 1977. Arranged by number, date, subject, rescission date, and circular replacement (if any).	do	Do.
Do	Listing of Federal management circulars transferred from General Services Administration. Arranged by number, subject, and date.	do	Do.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to Dec. 31, 1977; interpretive letters addressing the provisions of title IV of the Employee Retirement Income Security Act—plan termination insurance program.	The Office of Communications, Pension Benefit Guaranty Corp., Room 7100, 2020 K St. N W., Washington, D.C. 20006; Charge $0.10 per page; Payable to The Pension Benefit Guaranty Corp.	The Office of Communications, Attention: Mr. William Fitzgerald, (202) 254-4817, 2020 K St. NW., Washington, D.C. 20006.
Postal Rate Commission	Postal Rate Commission Index, from 1971 to Dec. 30, 1977; Opinions and Recommended Decisions, Advisory Opinions and Orders having a precedential value.	Information Officer of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C. 20268.
Postal Service	USPS Public Index, July 4, 1967—Dec. 31, 1977. List of USPS Directives and Publications; Index of Final Legal Opinions, Orders; Current Information Services Price List.	USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Section I—Introduction; Section II—List of USPS Directives and Publications $1; Section III—Index of Final Legal Opinions and Orders $9; Complete Index $10. Checks payable to U.S. Postal Service.	General Manager, Library Division, USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.
Renegotiation Board	Index of documents, vols. 1, 2, and 3, 1967 to present: Agreements, modification agreements, clearances after assignment, clearances after reassignment, clearances without assignment, clearance agreements, letters not to proceed, final orders, regional board opinions, orders, modification orders, special accounting agreements, interpretations, general orders, administrative orders that affect the public, memoranda of decision, statements of facts and reasons, summaries of facts and reasons, decisions on applications for stock item exemption, decisions on new durable productive equipment exemption, and decisions on applications for commercial exemption.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446. $0.15 per page.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446, Room 4310, Telephone: 202-254-7019.
Selective Service System	1. Index to Selective Service Regulations and Directives, 1948 to 1972.	National Headquarters Selective Service System 600 E Street NW. Washington, D.C. 20435. Prices: (1) $2; (2) $2; (3) $.10; (4) $.10. Make checks payable to: Selective Service System.	Records Manager, National Headquarters Selective Service System, 600 E Street NW. Washington, D.C. 20435, telephone 202-724-0419.
	2. Index to Selective Service Regulations and Registrants Processing Manual, 1972 to present.		
	3. General Index to Reconciliation Service Manual.		
	4. Registrant Information Bank Guide Index 1972 to present.		
Tennessee Valley Authority	Index to general administrative releases; covers period through March 1977; index to TVA organization bulletins, TVA codes, and TVA instructions.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902. Price: $2.00. Checks payable to: Tennessee Valley Authority.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902.
Veterans Administration	VA Index I-03-1, Index to Veterans Administration Publications, Nov. 1, 1975, annual. Highly technical reference tool by basic classifications subject to current VA directives and annual listing (noncumulative) of rescinded VA directives. Primarily designed for internal use.	Not on sale	Copies may be inspected or copied, and further information obtained at any Veterans Administration field office or Central Office. Not all listed material, however, is maintained at every field station. Visitors to Central Office (810 Vermont Ave. NW., Washington, D.C.) will be received by the Central Office Veterans Assistance Unit in Room 132. Visitors to any VA field station will be assisted and informed where the index may be inspected.
Do	Index and digest of decisions of the Veterans Administration Contract Appeals Board.	do	Inquiries should be directed to the Chairman, Contract Appeals Board (002C), Veterans Administration, 810 Vermont Ave. NW., Washington, D.C. 20420, telephone 202-275-1750.

[1] $5. a copy.
[2] $10. a copy for each year.

[FR Doc.78-2774 Filed 1-30-78;8:45 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

GSA BULLETIN FPR 31

FEDERAL PROCUREMENT

List of Basic Agreements Available for Use by Executive Agencies

To: Heads of Federal agencies.

Subject: List of basic agreements available for use by executive agencies.

1. *Purpose.* This bulletin lists the current basic agreements of executive agencies which are available for use in the procurement of research and development from educational institutions and nonprofit organizations in fiscal year 1978.

2. *Expiration date.* The information contained in this bulletin is of a continuing nature and will remain in effect until canceled.

3. *Background.* Subpart 1-3.4 of the Federal Procurement Regulations (FPR) describes the use of basic agreements. However, prior to FPR Amendment 149, it did not specifically refer to research and development or to interagency use of such agreements. Recommendation B-11 of the Commission on Government Procurement provided as follows: "Encourage the use of master agreements of the grant and contract types, which when executed should be used on a work order basis by all agencies and for all types of performers." The Commission based this recommendation on the observation that time and effort could be saved by both the Government and the performers of research and development through the use of prenegotiated terms and conditions allowing for new or additional work to be contracted for on a work order basis. After extensive study of this recommendation by the General Services Administration and the Department of Defense, it was determined that the purposes of the recommendation would be served to the maximum extent practicable by encouraging the use of basic agreements with educational institutions and nonprofit organizations. Recommendation B-11 was implemented in FPR Amendment 149 (40 FR 27655, July 1, 1975) which provides in § 1-3.410-2(e) for the publication of FPR bulletins listing the basic agreements of executive agencies on a fiscal year basis as reported by those agencies. The first list was published in GSA Bulletin FPR 26, February 25, 1977. The list of basic agreements set forth in this bulletin replaces the earlier list.

4. *Guidance.* A current list of institutions and organizations which have entered into basic agreements with executive agencies is set forth in attachment A. Each institution is listed alphabetically together with a code number which identifies the agency concerned. Attachment B lists agency contact points. The contact points may be used to obtain copies of and information concerning the current applicability of the various basic agreements.

5. *Cancellation.* This bulletin cancels GSA Bulletin FPR 26, dated February 25, 1977.

JAY H. BOLTON,
Acting Commissioner,
Federal Supply Service.

DECEMBER 27, 1977.

BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL YEAR 1978

Contractor	Basic agreement No. and date	Code
Akron, Univeristy of, Akron, Ohio	N00014-76-A-0142, Oct. 1, 1975	1
Alabama, University of (Huntsville)	N00014-76-A-0167, Dec. 15, 1975	1
Alabama, University of, University, Ala	N00014-76-A-0130, Dec. 15, 1975	1
Alaska, University of, Fairbanks, Alaska	N00014-76-A-0002, Apr. 1, 1976	1
American Institute of Biological Sciences[1]	N00014-76-A-0003, July 1, 1976	1
American University, Washington, D.C	N00014-76-A-0073, Oct. 1, 1975	1
Arizona Board of Regents, Arizona State University	N00014-76-A-0093, Dec. 1, 1975	1
Do	N00014-76-A-0030, Oct. 1, 1975	1
Arkansas, University of, Board of Trustees	N00014-76-A-0151, Jan. 1, 1976	1
Auburn University, Auburn, Ala	N00014-76-A-0141, Dec. 15, 1975	1
Beth Israel Medical Center, New York, N.Y	N00014-76-A-0085, Nov. 25, 1975	1
Bishop College, Dallas, Tex	N00014-76-A-0106, July 1, 1976	1
Boston College, Trustees of, Chestnut Hill, Mass	N00014-76-A-0117, Dec. 1, 1975	1
Boston University, Boston, Mass	N00014-76-A-0137, Feb. 15, 1976	1
Brandeis University, Waltham, Mass	N00014-76-A-0182, May 1, 1976	1
Brown University, Providence, R.I	N00014-76-A-0042, Oct. 15, 1975	1
Brigham Young University, Provo, Utah	N00014-76-A-0174, Jan. 1, 1976	1
California Institute of Technology, Pasadena, Calif	N00014-76-A-0005, Oct. 1, 1975	1
California State University, Long Beach Foundation, Long Beach, Calif.	N00014-76-A-0084, Jan. 1, 1976	1
California State University Foundation, Northridge, Northridge, Calif.	N00014-76-A-0095, Dec. 19, 1975	1
California, The Regents of the University of, Berkeley, Calif.	N00014-76-A-0004, Oct. 1, 1975	1
Carnegie-Mellon University, Pittsburgh, Pa	N00014-76-A-0063, Oct. 15, 1975	1
Case Western Reserve University, Cleveland, Ohio	N00014-76-A-0034, Oct. 1, 1975	1
Catholic University of America, Washington, D.C	N00014-76-A-0074, Oct. 1, 1975	1
Charles Stark Draper Laboratory, Cambridge, Mass.[1]	N00014-76-A-0007, Aug. 1, 1976	1
Chicago, University of, Chicago, Ill	N00014-76-A-0035, Oct. 1, 1975	1
Children's Hospital Medical Center, Boston, Mass	N00014-76-A-0132, Oct. 1, 1975	1
Cincinnati, University of, Cincinnati, Ohio	N00014-76-A-0147, Oct. 1, 1975	1
Clarkson College of Technology, Potsdam, N.Y	N00014-76-A-0043, Oct. 15, 1975	1
Clemson University, Clemson, S.C	N00014-76-A-0116, Dec. 6, 1975	1
Colorado School of Mines, Golden, Colo	N00014-76-A-0180, Apr. 19, 1976	1
Colorado State University, Fort Collins, Colo	N00014-76-A-0036, Oct. 1, 1975	1
Colorado, The Regents of the University of	N00014-76-A-0118, Oct. 1, 1975	1
Columbia University in the city of New York, The Trustees of, New York, N.Y.	N00014-76-A-0006, Oct. 15, 1975	1
Connecticut, University of, Storrs, Conn	N00014-76-A-0066, Jan. 1, 1976	1
Connecticut Health Center, University of	N00014-76-A-0150, Jan. 1, 1976	1
Cornell University, Ithaca, N.Y	N00014-76-A-0044, Oct. 15, 1975	1
Dartmouth College, Hanover, N.H	N00014-76-A-0121, Dec. 1, 1975	1
Dayton, University of, Dayton, Ohio	N00014-76-A-0157, Apr. 1, 1976	1
Delaware, University of, Newark, Del	N00014-76-A-0103, Oct. 29, 1975	1
Denver, University of (Colorado Seminary)	N00014-76-A-0125, Oct. 1, 1975	1
Drexel University, Philadelphia, Pa	N00014-76-A-0045, Oct. 15, 1975	1
Duke University, Durham, N.C	N00014-76-A-0071, Oct. 11, 1975	1
Emmanuel College, The Trustees of, Boston, Mass	N00014-76-A-0153, Dec. 12, 1975	1
Emory University, Atlanta, Ga	N00014-76-A-0081, Nov. 8, 1975	1
Environmental Research Institute of Michigan, Ann Arbor, Mich.	N00014-76-A-0172, July 1, 1976	1
Florida A & M University, Tallahassee, Fla	N00014-76-A-0170, Dec. 19, 1975	1
Florida Institute of Technology, Melbourne, Fla	N00014-76-A-0171, Jan. 1, 1976	1
Florida State University, Tallahassee, Fla	N00014-76-A-0082, Oct. 15, 1975	1
Florida, University of, Gainesville, Fla	N00014-76-A-0080, Oct. 8, 1975	1
Franklin Institute Research Laboratories, Philadelphia, Pa[1].	N00014-76-A-0007, Feb. 1, 1977	1
George Washington University, Washington, D.C	N00014-76-A-0075, Oct. 1, 1975	1
Georgetown University, Washington, D.C	N00014-76-A-0076, Oct. 1, 1975	1
Georgia Institute of Technology, Atlanta, Ga	N00014-76-A-0092, Nov. 6, 1975	1
Georgia State University, Atlanta, Ga	N00014-76-A-0079, Dec. 1, 1975	1
Georgia Tech Research Institute, Atlanta, Ga	N00014-76-A-0108, Nov. 6, 1975	1
Georgia, University of, Athens, Ga	N00014-76-A-0152, Dec. 1, 1975	1
Hahnemann Medical College, Philadelphia, Pa	N00014-76-A-0046, Oct. 15, 1975	1
Harvard College, President and Fellows of, Cambridge, Mass.	N00014-76-A-0028, Oct. 15, 1975	1
Hawaii, University of, Honolulu, Hawaii	N00014-76-A-0008, Oct. 1, 1975	1
Houston, University of, Houston, Tex	N00014-76-A-0068, Oct. 1, 1975	1
Howard University, Washington, D.C	N00014-76-A-0077, Oct. 1, 1975	1
Idaho, University of, Moscow, Idaho	N00014-76-A-0164, Dec. 1, 1975	1
Illinois, Board of Trustees of the University of	N00014-76-A-0009, Oct. 1, 1975	1
Illinois Medical Center, University of, Chicago, Ill	N00014-76-A-0086, Oct. 1, 1975	1
Indiana University Foundation, Bloomington, Ind	N00014-76-A-0089, Oct. 1, 1975	1
Iowa, University of, Iowa City, Iowa	N00014-76-A-0037, Oct. 1, 1975	1
Iowa State University of Science and Technology, Ames, Iowa.	N00014-76-A-0173, Dec. 29, 1975	1
John Carroll University, Cleveland, Ohio	N00014-76-A-0094, Oct. 1, 1975	1
Johns Hopkins University, Baltimore, Md	N00014-76-A-0061, Oct. 15, 1975	1
Kansas State University, Manhattan, Kans	N00014-76-A-0120, Oct. 1, 1975	1
Kansas, University of, Lawrence, Kans	N00014-76-A-0065, Oct. 1, 1975	1

BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL YEAR 1978—Continued

Contractor	Basic agreement No. and date	Code
Kentucky Research Foundation, University of, Lexington, Ky.	N00014-76-A-0146, Oct. 1, 1975	1
Lehigh University, Bethlehem, Pa	N00014-76-A-0047, Oct. 15, 1975	1
Leland Stanford Junior University, The Board of, Trustees of, Stanford, Calif.	N00014-76-A-0029, Nov. 18, 1975	1
Louisiana State, Board of Supervisors of (University and Agricultural and Mechanical College), Baton Rouge, La.	N00014-76-A-0072, Oct. 1, 1975	1
Louisville Foundation, University of, Louisville, Ky	N00014-76-A-0148, Oct. 1, 1975	1
Loyola University, Chicago, Ill	N00014-76-A-0175, Jan. 1, 1976	1
Maryland, University of, College Park, Md	N00014-76-A-0096, Oct. 15, 1975	1
Massachusetts General Hospital, Boston, Mass	N00014-76-A-0133, Dec. 1, 1975	1
Massachusetts Institute of Technology, Cambridge, Mass.	N00014-76-A-0049, Oct. 15, 1975	1
Massachusetts, University of, Amherst, Mass	N00014-76-A-0048, Oct. 15, 1975	1
Miami, University of, Coral Gables, Fla	N00014-76-A-0010, Oct. 15, 1975	1
Michigan State University, East Lansing, Mich	N00014-76-A-0087, Oct. 1, 1975	1
Michigan Technological University, Houghton, Mich	N00014-76-A-0140, Oct. 1, 1975	1
Michigan, The Regents of the University of	N00014-76-A-0011, Oct. 1, 1975	1
Minnesota, The Regents of the University of	N00014-76-A-0012, Oct. 1, 1975	1
Missouri University Hall, The Curators of, Columbia, Mo.	N00014-76-A-0070, Oct. 1, 1975	1
Montana State University, Bozeman, Mont	N00014-76-A-0159, Dec. 1, 1975	1
Montana, University of, Missoula, Mont	N00014-76-A-0162, Dec. 1, 1975	1
National Academy of Sciences, Washington, D.C.[1]	6300057, July 1963	2
Do[1]	DOT/OS-60118, Oct. 1, 1976	3
Do[1]	N00014-76-A-0013, Feb. 1, 1976	1
Nevada System, University of, Reno, Nev	N00014-76-A-0119, Oct. 1, 1975	1
New Hampshire, University of, Durham, N.H	N00014-76-A-0050, Oct. 15, 1975	1
New Mexico Institute of Mining and Technology, Socorro, N. Mex.	N00014-76-A-0031, Oct. 1, 1975	1
New Mexico State University, Physical Science Laboratory, Las Cruces, N. Mex.	N00014-76-A-0032, Oct. 1, 1975	1
New Mexico University, Regents of, University Hill, Albuquerque, N. Mex.	N00014-76-A-0136, Dec. 1, 1975	
New York University, New York, N.Y	N00014-76-A-0014, Oct. 15, 1975	1
New York University Medical Center, New York, N.Y	N00014-76-A-0102, Nov. 15, 1975	1
New York City University, Research Foundation on behalf of City College.	N00014-76-A-0056, Oct. 15, 1975	1
New York State University, Research Foundation of, Albany, N.Y.	N00014-76-A-0057, Oct. 15, 1975	1
North Carolina at Chapel Hill, University of, Chapel Hill, N.C.	N00014-76-A-0101, Oct. 11, 1975	1
North Carolina at Charlotte, University of Charlotte, N.C.	N00014-76-A-0144, Jan. 1, 1976	1
North Carolina at Wilmington, University of, Wilmington, N.C.	N00014-76-A-0131, Dec. 1, 1975	1
North Carolina State University at Raleigh, Raleigh, N.C.	N00014-76-A-0097, Oct. 11, 1975	1
North Dakota, University of, Grand Forks, N.Dak	N00014-76-A-0114, Oct. 1, 1975	1
Northeastern University, Boston, Mass	N00014-76-A-0051, Oct. 15, 1975	1
Northwestern University, Evanston, Ill	N00014-76-A-0038, Oct. 1, 1975	1
Notre Dame Du Lac, University of, Notre Dame, Ind	N00014-76-A-0143, Oct. 1, 1975	1
Nova University, Fort Lauderdale, Fla	N00014-76-A-0067, Dec. 16, 1975	1
Oakland University, Rochester, Mich	N00014-76-A-0139, Oct. 1, 1975	1
Ohio State University, Research Foundation, Columbus, Ohio.	N00014-76-A-0039, Oct. 1, 1975	1
Oklahoma State University of Agriculture and Applied Science, Stillwater, Okla.	N00014-76-A-0166, Oct. 1, 1975	1
Oklahoma, University of, Norman, Okla	N00014-76-A-0138, Oct. 1, 1975	1
Old Dominion University, Research Foundation, Norfold, Va.	N00014-76-A-0127, Dec. 15, 1975	1
Oregon Graduate Center for Study and Research, Beaverton, Oreg..	N00014-76-A-0165, Dec. 1, 1975	1
Oregon State University, the State of Oregon, acting by and through the State Department of Higher Education on behalf of, Corvallis, Oreg.	N00014-76-A-0015, Sept. 30, 1975	1
University of Oregon, the State of Oregon, acting by and through the State Board of Higher Education on behalf of, Eugene, Oreg.	N00014-76-A-0163, Dec. 1, 1975	1
Pennsylvania State University, University Park, Pa	N00014-76-A-0052, Oct. 15, 1975	1
Pennsylvania, The Trustees of the University of, Philadelphia, Pa.	N00014-76-A-0016, Oct. 15, 1975	1
Pittsburgh, University of, Pittsburgh, Pa	N00014-76-A-0053, Oct. 15, 1975	1
Polytechnic Institute of New York, Brooklyn, N.Y	N00014-76-A-0054, Oct. 15, 1975	1
Princeton University, The Trustees of, Princeton, N.J	N00014-76-A-0018, Oct. 15, 1975	1
Purdue Research Foundation, West Lafayette, Ind.	N00014-76-A-0019, Oct. 1, 1975	1
Regis College, Weston, Mass	N00014-76-A-0181, July 1, 1976	1
Rensselaer Polytechnic Institute, Troy, N.Y	N00014-76-A-0055, Oct. 15, 1975	1
Rhode Island, University of, Kingston, R.I	N00014-76-A-0058, Oct. 15, 1975	1
William Marsh Rice University, Houston, Tex	N00014-76-A-0062, Oct. 1, 1975	1
Rochester, University of, Rochester, N.Y	N00014-76-A-0145, Oct. 15, 1975	1
Rutgers, The State University, New Brunswick, N.J	N00014-76-A-0064, Oct. 15, 1975	1
Saint Louis University, St. Louis, Mo	N00014-76-A-0158, Oct. 1, 1975	1
San Diego State University Foundation, San Diego, Calif.	N00014-76-A-0021, Feb. 1, 1976	1
San Jose State University Foundation, San Jose, Calif	N00014-76-A-0040, Jan. 15, 1976	1
Seattle University, Seattle, Wash	N00014-76-A-0078, Dec. 10, 1975	1
Smithsonian Institution, Washington D.C.[1]	N00014-76-A-0123, Feb. 1, 1976	1
Smithsonian Science Information Exchange, Inc., Washington, D.C..	FC-8003950000, Oct. 1, 1977	4

BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL YEAR 1978—Continued

Contractor	Basic agreement No. and date	Code
South Dakotas School of Mines and Technology, Rapid City, S. Dak.	N00014-76-A-0088, Oct. 1, 1975	1
South Florida, University of, Tampa, Fla	N00014-76-A-0069, Jan. 1, 1976	1
Southern California, University of, Los Angeles, Calif	N00014-76-A-0022, Oct. 1, 1975	1
Southern Methodist, University Research Administration, Dallas, Tex.	N00014-76-A-0115, Oct. 1, 1975	1
Stanford Research Institute, Menlo Park, Calif.[1]	N00014-76-A-0168, Dec. 13, 1976	1
Stevens Institute of Technology, The Trusees of, Hoboken, N.J.	N00014-76-A-0059, Oct. 15, 1975	1
Syracuse University, Syracuse, N.Y	N00014-76-A-0154, Jan. 1, 1976	1
Tennessee, University of, Knoxville, Tenn	N00014-76-A-0098, Oct. 15, 1975	1
Texas A & M Research Foundation, College Station, Tex.	N00014-76-A-0024, Oct. 1, 1975	1
Texas Christian University, Forth Worth, Tex	N00014-76-A-0169, Oct. 1, 1975	1
Texas System, University of, Austin, Tex	N00014-76-A-0023, Oct. 1, 1975	1
Texas Tech University, Lubbock, Tex	N00014-76-A-0135, Oct. 1, 1975	1
Tufts University, Medford, Mass	N00014-76-A-0155, Dec. 1, 1975	1
Tulane University, New Orleans, La	N00014-76-A-0107, Oct. 1, 1975	1
Tuskegee Institute, Tuskegee, Ala	N00014-76-A-0149, Dec. 15, 1975	1
Union College, Schenectady, N.Y	N00014-76-A-0126, Jan. 1, 1976	1
Utah State University, Logan, Utah	N00014-76-A-0160, Jan. 1, 1976	1
Utah, University of, Salt Lake City, Utah	N00014-76-A-0033, Oct. 1, 1975	1
Vermont, University of, Burlington, Vt	N00014-76-A-0134, Jan. 1, 1976	1
Virginia Commonwealth University, Richmond, Va	N00014-76-A-0104, Nov. 7, 1975	1
Virginia Polytechnic Institute and State University, Blacksburg, Va.	N00014-76-A-0099, Oct. 15, 1975	1
Virginia State College, Petersburg, Va	N00014-76-A-0129, Jan. 30, 1976	1
Virginia, The Rector and Visitors of the University of Charlottesville, Va.	N00014-76-A-0025, Oct. 15, 1975	1
Wake Forest University (Bowman Gray School of Medicine), Winston-Salem, N.C.	N00014-76-A-0083, Oct. 1, 1975	1
Washington State University, Pullman, Wash	N00014-76-A-0091, Oct. 1, 1975	1
Washington, The Board of Regents of the University of, Seattle, Wash.	N00014-76-A-0026, Sept. 30, 1975	1
Washington University, St. Louis, Mo	N00014-76-A-0124, Oct. 1, 1975	1
Wayne State University, Detroit, Mich	N00014-76-A-0105, Oct. 1, 1975	1
Wentworth Institute, Boston, Mass	N00014-76-A-0156, Jan. 1, 1976	1
West Virginia Board of Regents on behalf of West Virginia University, Morgantown, W. Va.	N00014-76-A-0100, Oct. 8, 1975	1
William and Mary, College of, Williamsburg, Va	N00014-76-A-0110, Nov. 7, 1975	1
Wisconsin System, Board of Regents of the University	N00014-76-A-0041, Oct. 1, 1975	1
Woods Hole Oceanographic Institution, Woods Hole, Mass[1].	N00014-76-A-0183, Jan. 20, 1977	1
Worcester Polytechnic Institute, Worcester, Mass	N00014-76-A-0128, Jan. 1, 1976	1
Wyoming, University of, Laramie, Wyo	N00014-76-A-0122, Oct. 1, 1975	1
Yale University, New Haven, Conn	N00014-76-A-0027, Oct. 15, 1975	1
Yeshiva University, New York, N.Y	N00014-76-A-0060, Oct. 15, 1975	1

[1]Nonprofit organization.

NOTE.—Where a specific basic agreement number and/or date is cited, the buying office should verify its current applicability. For a copy of or information concerning a particular basic agreement, identify the contractor and its code number and locate the contact point on attachment B.

CONTACT POINTS FOR INFORMATION ON THE BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL YEAR 1978

Contact points	Code
Mr. Ken Popham, Office of Naval Research (Code 611), 800 North Quincy St., Arlington, Va. 22217, 202-692-4605	1
Mr. Leonard A. Redecke, Contracts Administrator, Contracts Branch, Grants and Contracts Office, National Science Foundation, Washington, D.C. 20550, 202-632-5872	2
Mr. Barnett M. Anceleitz, Director of Installations and Logistics, Department of Transportation, Washington, D.C. 20590, 202-426-4237	3
Mr. Harry P. Barton, Director, Office of Supply Services, Smithsonian Institution, Washington, D.C. 20024, 202-381-5924	4

[FR Doc. 78-2398 Filed 1-30-78; 8:45 am]

[6820-34]

GENERAL SERVICES ADMINISTRATION

ADVISORY COMMITTEE ON REAL ESTATE LEASING PROCEDURES

Establishment of Advisory Committee

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and advises of the establishment of an Advisory Committee for review of GSA real estate leasing procedures. The Administrator of General Services has determined that this advisory committee is in the public interest.

Designation. Advisory Panel on Real Estate Leasing Procedures.

Purpose. To review existing procedures and make recommendations as appropriate to the Administrator of General Services with respect to the methods by which GSA acquires leasehold interests in real estate. The objective is to utilize the experience and expertise of various segments of industry in conducting the review.

General information. Pursuant to OMB Circular A-63, the Committee Management Secretariat has authorized a period of less than 15 days between publication of this notice and the filing of the committee charter.

Dated: January 30, 1978.

JAY SALOMON,

Administrator of General Services.

[FR Doc. 78-2883 Filed 1-30-78; 12:23 am]

[6820-22]

ADVISORY PANEL ON REAL ESTATE LEASING PROCEDURES

Meeting

Notice is hereby given of the convening of an Advisory Panel on Real Estate Leasing Procedures, February 1 and 2 from 9 a.m. to 4:30 p.m., Room 5141A, General Services Administration, 18th and F Streets NW., Washington, D.C. The panel will review existing procedures and make any necessary recommendations with respect to the methods by which GSA acquires leasehold interests in real property.

The meeting will be open to the public.

Pursuant to OMB Circular A-63, a period of less than 15 days between publication of this notice and the date the meeting is scheduled to be held is necessary because the committee was not formally structured as an advisory committee when it was initially formed.

Dated: January 30, 1978.

TOM L. PEYTON, Jr.,

Acting Commissioner, Public Buildings Service.

[FR Doc. 78-2884 Filed 1-30-78; 12:23 pm]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., February 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 28475, Ozark's petition for reconsideration of Order 77-4-16 (Memo No. 5708-B, BOR).

3. Dockets 30915 and 30955, Frontier Airlines and Hughes Airwest applications for Nonstop Authority Between Boise and Denver (Memo No. 7608, BOR, BLJ).

4. Docket 29554, Airwest's Application for Authority between Las Vegas-Albuquerque-El Paso-Midland/Odessa-San Antonio-Corpus Christi and Houston and between Phoenix/Tucson-San Antonio-Houston and New Orleans and motion for immediate hearing (Memo No. 7314, BOR, BLJ).

5. Docket 30910, Eastern's Motion for Hearing on Nonstop Dallas-Tucson Authority (Memo No. 7509, BOR).

6. Docket 28273, Frontier's Motion for Hearing on Tucson-San Diego (Memo No. 7657, 7657-A, BOR, OCCR).

7. Docket 28115, Midwest Atlanta Competitive Service Case (proposed instructions to staff) (OGC, OEA).

8. The Council on Environmental Quality's proposed regulations to implement the National Environmental Policy Act (most specifically, the environmental impact statement process) (Memo No. 7729, BOR, OGC, BLJ, BIA, BFR).

9. Dockets 31411 and 23888, Application of Allegheny Airlines, Ransome Airlines and the Sullivan County Parties for approval of replacement agreement and postponement of inauguration of service at Sullivan County; Petition of Altair for Order Modifying Agreement between Allegheny and Ransome (BOR).

10. Docket 27123, Order on reconsideration in Western Route Realignment (BOR).

11. Docket 24297, Petition for Reconsideration of Order 77-7-50 filed by John E. and Florence D. Amberg (Memo No. 3483-B, BOR).

12. Docket 15700, Petition for modification of order approving acquisition of control of Frontier Airlines, Inc., by the General Tire Company and RKO General Tire (Memo No. 7716, BOR, OGC).

13. Docket 31660, Application for approval for exemption of Air Express International's acquisition of Trans Air Freight System (Memo No. 7730, BOR).

14. Motions to withhold from public disclosure the price information contained in certain service contracts of Pan American World Airways, Inc.; Agreements CAB 26333, 26457, 26471, 26332, 26334, 26566, 26795, 26818, 26819, 26979, 26975, 27003, 27005 (Memo No. 7720, BOR, OGC).

15. Docket 31512, Application of Trans International Airlines, Inc. for disclaimer of jurisdiction or approval under section 408 of the Act, of aircraft leases (Memo No. 7719, BOR, OGC).

16. Dockets 30090, 30124, 30191 and 30213, Petitions of Pan American, TWA, and Seaboard for Reconsideration of Order 77-6-138 granting TIA, AIA, and World blanket exemptions to perform outsized cargo charter flights between U.S. and the Middle East and Africa; Docket 31112, Application of ONA for an exemption to perform outsized cargo charter flights between the U.S. and the Middle East and Africa (Memo No. 6999-B, BOR, BFR, OGC).

17. Docket 31582, Application of Texas International Airlines, Inc., for temporary suspension of service at Waco, Texas (Memo No. 7727, BOR, BFR).

18. Dockets 30945 and 30972, Finalization of Order to Show Cause why Frontier and TXI should not be granted unrestricted one-stop authority between Little Rock and Denver (Memo No. 7457-A, 7457-B, BOR).

19. Docket 31206, Application of Wilson & Company AB (Sweden) d.b.a. Wilson Air Freight, Inc. (U.S.A.) for a foreign indirect air carrier permit (Memo No. 7577-A, BOR, BIA).

20. Dockets 25022, 19570 and 19745, Martin's Luchtvervoer Maatschappij N.V., Final Board action on Show Cause Order 77-11-14 (Memo No. 334-F, BOR, BIA).

21. Docket 29336, Air BVI Limited and Air BVI (1976) Limited; Transfer of a Foreign Air Carrier Permit (Memo No. 2960-B, BIA, OGC).

22. Docket 30706, Northward Airlines Limited; Final Board Action on Show Cause Order 77-12-41 (Memo No. 7619-A, BIA, OGC).

23. Docket 31465, Cornwall Aviation Limited, Final Board Action on Show Cause Order 77-12-85 (Memo No. 7636-A, BIA, OGC).

24. Docket 31292, Reiseburo Schwaben International GmbH (Germany) d.b.a. Schwaben Charters, Inc. (Memo No. 7731, BIA, OGC).

25. Response to Petition of Thomas A. Dickerson received August 22, 1977, requesting investigation of the grant of certain waivers by BOR (Memo No. 7715, BOE, OGC, BOR).

26. Docket 29123, Braniff petition for reconsideration of Order 77-12-24, December 13, 1977 (Memo No. 7724, BFR, BIA).

27. Docket 31842, Braniff complaint against a proposal by Mexicana to permit individual returns on its GIT fares (Memo No. 7725, BFR, BIA).

28. Docket 29160, Subsidy Rate Amendment Three to Order 76-12-159, Class Rate VIII (Memo No. 5972-K, BFR, Comptroller).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-214-78 Filed 1-27-78; 9:10 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

[M-95, amdt. 2; 1-24-78]

NOTICE OF DELETION OF ITEM FROM THE JANUARY 24, 1978, AGENDA

TIME AND DATE: 10 A.M., January 24, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUJECT: 2. Dockets 31411 and 23888, Application of Allegheny Airlines,

Ransome Airlines and the Sullivan County Parties for apprival of replacement agreement and postponement of inauguration of service at Sullivan County; Petition of Altair for Order Modifying Agreement between Allegheny and Ransome (BOR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff had indicated that it would have prepared for the Board's consideration on January 24, 1978, material regarding Item 2. The necessary material was not ready for the January 24 meeting. Consequently, it was necessary to delete Item 2 from the January 24 meeting and to reschedule this item in the future. Accordingly, the following Members have voted that agency business requires the deletion of this item from the January 24, 1978, agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn.
Member, G. Joseph Minetti.
Member, Elizabeth E. Bailey.

[S-213-78 Filed 1-27-78; 9:10 am]

[6355-01]

3

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

TIME AND DATE: 2 p.m., October 18, 1977.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Fyrol FR-2

The Commission considered possible action with regard to the flame-retardant chemical Fyrol FR-2, and children's sleepwear treated with this chemical. The Commission held a fact-finding public meeting on Fyrol October 13, 1977.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, 202-634-7700.

[S-215-78 Filed 1-27-78; 10:02 am]

[6355-01]

4

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 9:30 a.m., October 19, 1977.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Television Receiver Safety Standard

The staff briefed the Commission on a review of subpoenaed data, reports from consultants, and responses from the public on the recommended safety standard for television receivers which Underwriters Laboratories (UL) submitted in July 1976. By October 31, 1977, the Commission had to decide to propose a standard, withdraw the proceeding, or extend the time for its consideration of the recommended standard.

2. Proposed Amendments to Children's Sleepwear Flammability Standards

At its September 15, 1977 meeting, the Commission instructed the staff to prepare a document which would propose amendments to the standards for the flammability of children's sleepwear sizes 0-6X (FF 3-71) and 7-14 (FF 5-74). The staff briefed the Commission on the proposed amendments which would delete requirements for residual flame time in FF 3-71; delete coverage of sizes below size 1 in FF 3-71; and modify the methos for testing trim in both standards. The amendments would reduce the need for using flame-retardant chemicals in sleepwear garments and trim.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, Suite 300, 1111 18th Street Washington, D.C. 20207, telephone 202-634-7700.

[S-216-78 Filed 1-27-78; 10:02 am]

[6355-01]

5

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

TIME AND DATE: 10:30 a.m., November 9, 1977.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Tris Litigation

At this meeting, the Commission and staff discussed various options for Commission action with regard to litigation involving the flame-retardant Tris.

2. Pierce & Stevens Chemical Corp. v. CPSC

The Commission and staff discussed options for action with regard to this litigation.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, 202-634-7700.

[S-217-78 Filed 1-27-78; 10:02 am]

[6355-01]

6

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3d Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 9:30 a.m., November 10, 1977.

STATUS: Partly Open; Partly Closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public:

1. *Home Insulation.* The Commission and staff discussed options for Commission action on a petition on home insulation filed by the Denver District Attorney's Office.

2. *Infant Rattles.* The Commission considered regulatory options which the staff has identified to deal with the choking and asphyxiation hazards associated with certain infant rattles. The Commission previously considered these products at the June 23, 1977 Commission Meeting.

3. *Recommendation to Accept Corrective Action Plan and Close Possible Substantial Product Hazard Case: General Electric Co. air conditioners, ID 77-56.* The staff recommended that the Commission accept the corrective action plan which General Electric implemented to deal with possible shock hazards in certain air conditioners, and close the case.

B. Closed to the Public:

4. *Request for Civil Penalties Under the Consumer Product Safety Act for Violations of the Special Order for Submission of Chemical Formulations.* The Commission considered staff recommendations to assess civil penalties against several firms which did not comply with the Commission's August, 1975 Special Order ("the Auerbach Order") for submission of certain chemical formulas.

C. Open to the Public:

5. *Briefing on Operating Plan Schedule.* The staff briefed the Commission on the Operating Plan for fiscal year 1978. At the briefing, the Commission made no formal decisions.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-218-78 Filed 1-27-78; 10:02 am]

[6355-01]

7

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3d Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 3 p.m., November 15, 1977.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Tris Litigation. The Commission and staff discussed various options for Commission action with regard to litigation involving the flame-retardant chemical Tris.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-219-78 Filed 1-27-78; 10:02 am]

[6355-01]

8

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3d Floor hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 2 p.m., November 17, 1977.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Holiday Safety Campaign Briefing.* Staff from the Office of Communications briefed the Commission on CPSC's 1977 Holiday Safety Information and Education campaign.

2. *Asbestos Briefing.* The staff briefed the Commission on various issues which arose from the Commission's previous decision to ban certain products containing respirable free-form asbestos. The Commission made no formal decisions at this meeting.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-220-78 Filed 1-27-78; 10:02 am]

[6355-01]

9

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 2 p.m. November 30, 1977.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Meeting with Chain Saw Manufacturers Association.* The Commission granted a request to meet with representatives of the Chain Saw Manufacturers Association to discuss a petition which seeks mandatory safety standards to prevent "kickback" injuries associated with chain saws. (See item 2 below)

2. *Briefing on Chain Saw Petition, CP 77-10.* In March, 1977, John Purtle, an attorney, asked the Commission to set mandatory safety standards for chain saws to reduce or eliminate injuries associated with "kickback" of the saw during use. At this briefing, the staff discussed various options for Commission action on the petition. the Commission met to consider action on the petition at its December 1 Meeting.

3. *Television Receiver Feasibility Study.* At its October 20 Meeting on the television receiver safety standard proceeding, the Commission directed the staff to prepare a feasibility study on the containment of television receiver fires within the television set. At this briefing, the staff discussed the contents of the proposed feasibility study.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-221-78 Filed 1-27-78; 10:02 am]

[6712-01]

10

FEDERAL COMMUNICATIONS COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43, Page 3339, January 24, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Follows 9:30 a.m., Open Meeting, Wednesday, January 25, 1978.

STATUS: Closed Commission Meeting.

CHANGES IN THE MEETING: The meeting on the following subject has been cancelled:

Agenda, Item No., and Subject

Hearing—1—Questions concerning the comparative proceeding for a new standard broadcast station at Lares, Puerto Rico (Docket Nos. 20968-20969), and request for reconsideration of the amendment of Rule 73.35(b) (Docket No. 20548).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 24, 1978.

[S-224-78 Filed 1-27-78; 3:48 pm]

[6712-01]

11

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Special Open Meeting, Wednesday, February 1, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Proposed policy research funding for the remainder of fiscal year 1978.

Common Carrier—1—Primary Instrument Proposal.

Common Carrier—2—Application of A.T. & T., et al. for submarine cables between the continental United States, Puerto Rico/Virgin Islands, Venezuela, and Brazil (File Nos. I-P-C-5, I-P-C-5-A, and S-C-L-47).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 25, 1978.

[S-225-78 Filed 1-27-78; 3:48 pm]

[6712-01]

12

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m. Special Open Meeting, Thursday, February 2, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—UHF Task Force Report: Demonstration of Spectrum-Saving Technology.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 26, 1978.

[S-226-78 Filed 1-27-78; 3:48 pm]

[6712-01]

13

FEDERAL COMMUNICATIONS COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43, Page 3339, January 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, January 25, 1978.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Time has been changed to 10 a.m. The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 25, 1978.

[S-227-78 Filed 1-27-78; 3:48 pm]

[6712-01]

14

FEDERAL COMMUNICATIONS COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43, Page 3339, January 24, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, January 25, 1978.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following items have been deleted:

Agenda, Item No., and Subject

Safety and Special and Radio Services—4—Simplification of the licensing and call sign assignment systems in the Amateur Radio Service (Docket No. 21135).

Cable Television—4—Petitions for stay of Commission decision in Vanhu, Inc. (Seattle, Wash.) filed by United Community Antenna Systems, Community Telecable of Seattle and Tele-Vue Systems, and KIRO's objections.

Renewal—2—Mutually exclusive applications for renewal of license filed by the noncommercial sharetime licensees on channel 2, Miami, Fla. (File Nos. BRET-184, BRET-17).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 23, 1978 and January 24, 1978.

[FR Doc. S-228-78 Filed 1-27-78; 3:48 am]

[6712-01]

15

FEDERAL COMMUNICATIONS COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: Volume 43, Page 2273, January 16, 1978, Volume 43, Page 3008, January 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETINGS: 2 p.m., Special Open Meeting, Wednesday, January 18, 1978, followed by Closed Meeting.

STATUS: Special open and closed meetings.

CHANGES IN THE MEETING:

The special open meeting has now been rescheduled to be held at 10 a.m., Thursday, January 19, 1978. The closed meeting was held on Wednesday, January 18, 1978, starting at 4 p.m.

The prompt and orderly conduct of Commission business requires these changes and no earlier announcement of the changes was possible.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 19, 1978.

[FR Doc. S-229-78 Filed 1-27-78 3:48 am]

[6740-02]

16

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 20, 1978, 43 FR 3009.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 25, 1978, 10 a.m., continued on January 26, 1978, 2 p.m.

CHANGE IN MEETING: The following item has been added:

Docket No. and Company

RP78-32, *Texas Eastern Transmission Corporation.*

LOIS D. CASHELL,
Acting Secretary.

[S-222-78 Filed 1-27-78; 11:07 am]

[6720-01]

17

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 14, Pg. 3010, Friday, January 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 25, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-277-6679.

CHANGES IN THE MEETING: The following item has been changed from the open to the closed portion of the meeting:

Consideration of Association Request for Compromise or Mitigation of Liquidity Penalties—Port Angeles Savings and Loan Association, Port Angeles, Wash.

No. 128, January 20, 1978.

[S-223-78 Filed 1-27-78; 3:48 pm]

[6720-01]

18

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., February 2, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED:

Agency Office Application—First Federal Savings and Loan Association of Miami, Miami, Fla.

Consideration of Request for Waiver of Condition—TYME RSU Project—First Federal Savings and Loan Association of Wisconsin, Milwaukee, Wis.

Satellite Office Application—Home Federal Savings and Loan Association of Hamilton, Hamilton, Ohio.

Notice of Termination of Insurance of Accounts and Withdrawal from Bank Membership—Scioto Savings Association, Columbus, Ohio.

Limited Facility Application—St. Paul Federal Savings and Loan Association, Chicago, Ill.

Consideration of Association Request for Extension of Time to Make Capital Infusion—Homestead Financial Corp., San Francisco, Calif.

Consideration of Amendments Regarding Flood Insurance—section 703(c) of the Housing and Community Development Act of 1977.

No. 130, January 26, 1978.

[S-212-78 Filed 1-27-78; 9:10 am]

[7710-12]

19

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

The Board of Governors of the United States Postal Service, pursuant

to its Bylaws (39 CFR 7.5 (as amended, 42 FR 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Tuesday, February 7, 1977, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. Except as indicated in the following paragraphs, the meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

On January 5, 1978, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the February 7, 1978, meeting. Each of the members of the Board voted in favor of partially closing the meeting, which is expected to be attended by the following persons: Governors Wright, Holding, Ching, Codding, Hardesty, and Robertson; Postmaster General Bailar; Deputy Postmaster General Bolger; Secretary to the Board Cox; and Senior Assistant Postmaster General (Employee and Labor Relations) Conway.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1975 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire on July of 1978.

Agenda

1. Minutes of the Previous Meeting.

2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the occurrence of a recent congressional hearing, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly Report on Financial Performance.

(Mr. Biglin, Senior Assistant Postmaster General, Finance Group, will present the quarterly report on financial performance.)

4. Capital Investment Projects.

a. South Suburban Management Sectional Center Facility at Chicago, Ill. (The Board will consider a proposed project for the purchase and renovation of an existing building for use as a Management Sectional Center Facility.)

b. Procurement of Facer Cancellers/Edger Feeders. (The Board will consider a proposed procurement of 100 Mark 36 Facer Cancellers and associated Edger Feeder equipment.)

c. Procurement of ¼-ton vehicles. (The Board will consider the procurement of 7,670 ¼-ton vehicles for fiscal year 1978 with an option for 7,500 additional vehicles to be funded in fiscal year 1979.)

5. Selection of an Independent Certified Public Accounting Firm to Certify the Accuracy of Postal Service Financial Statements.

(This is one of the matters that is reserved for decision by the Board under section 3.4 of the Board's Bylaws.)

6. Recommended Decisions of the Postal Rate Commission on twelve proposals to change the Domestic Mail Classification Schedule. (Commission Docket Nos. MC76-1, MC76-2, MC76-3, and MC76-4.)

(The Governors will consider the Commission's Recommended Decisions of December 22, 1977, recommending that no changes be made in the Domestic Mail Classification Schedule in regard to some eleven separate proposals of various parties to the Commission's mail classification proceedings, and recommending that §300.223 of the Schedule be amended to eliminate the dual minimum per-piece rate structure for third-class bulk regular mail.)

7. Review of Service Improvement Programs.

(Mr. Ulsaker, Senior Assistant Postmaster General, Administration Group, will present a review of programs to expand and improve services which the USPS provides to the public.)

8. Discussion of Strategies and Positions in Collective Bargaining Negotiations.

(Mr. Conway, Senior Assistant Postmaster General, Employee and Labor Relations Group, will discuss with the Board possible strategies and positions in anticipated collective bargaining negotiations for a new Labor Agreement. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

LOUIS A. COX,
Secretary.

[S-230-78 Filed 1-27-78; 3:48 pm]

[7710-12]

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

Notice of Committee Meeting

The Committee on Postal Rates of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5 (as amended, 42 FR 12862, 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 7:45 a.m. on Tuesday, February 7, 1978, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the Recommended Decisions of the Postal Rate Commission, issued on December 22, 1977, Docket Nos. MC76-1, MC76-2, MC76-3, and MC76-4, recommending that no changes be made in the Domestic Mail Classification Schedule in regard to some twelve separate proposals of various parties to the Commission's mail classification proceedings. The Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on the same day. The Commission's Recommended Decisions are on the agenda for the board meeting.

LOUIS A. COX,
Secretary.

[S-231-78 Filed 1-27-78; 3:48 am]

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

Notice of Committee Meeting

The Committee on Audit of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5 (as amended, 42 FR 12862, 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, February 7, 1978, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the selection of an independent certified accounting firm to certify the accuracy of Postal Service financial statements.

This Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on the same day. A report of the Committee is on the agenda for the Board meeting.

LOUIS A. COX,
Secretary.

[S-232-78 Filed 1-27-78; 3:48 am]

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TUESDAY, JANUARY 31, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

ORAL CONTRACEPTIVES

Requirement for Labeling Directed to the Patient

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0487]

PART 310—NEW DRUGS

New Drugs Requirement for Labeling Directed to the Patient

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule revises the requirements for patient labeling for oral contraceptive drug products. This action is taken to provide consumers with expanded labeling information reflecting recent reports about the risk of blood clots, other problems of the circulatory system, cancer and effects on the unborn child associated with the use of oral contraceptives. This new labeling will be provided by the dispenser to each patient to whom the drug is dispensed.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of December 7, 1976 (41 FR 53630), the Food and Drug Administration (FDA) proposed to revise requirements for patient labeling for oral contraceptive drug products. Interested persons were given until February 7, 1977 to submit written comments. More than 190 individuals, physicians, manufacturers, and trade and professional organizations commented on the proposal. The following discussion summarizes and responds to the substantial issues raised by the comments.

1. *Statutory authority.* Several comments contended that FDA lacks the authority to require patient labeling for prescription drugs. The comments argue that sections 502, 505, and 701(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352, 355, 371(a)), cited as authority for the patient labeling requirement, do not provide any such authority. The comments urge, moreover, that section 503(b)(2) of the act expressly prohibits FDA from requiring patient labeling for prescription drugs. The comments argue that the legislative history of section 503 shows that Congress left to the judgment of the prescribing physician the decision regarding the content and extent of cautionary and directive information to be made available to the patient.

The Commissioner disagrees with these contentions. The Food and Drug Administration's legal authority for requiring patient labeling was explained in detail in the preamble to the proposed new format for prescription drug labeling published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392), and it was also discussed in the preamble to the final rule for patient labeling for estrogen drug products published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636). The Commissioner will not repeat that full discussion here, but he believes that several points should be emphasized. Section 505 of the act provides that a new drug application (NDA) may be approved only if a new drug is shown to be safe and effective in use under the conditions set forth in its labeling, and section 201(p) of the act (21 U.S.C. 321(p)) similarly provides an exemption from the requirement for an NDA only if the drug is generally recognized as safe and effective under the conditions set forth in the labeling. Moreover, both sections 502(a) and 505(d) of the act prohibit prescription drug labeling that is false or misleading in any particular, and section 201(n) of the act explicitly provides that the failure of the labeling to reveal material facts will render that labeling misleading. Accordingly, the act requires the Commissioner to make a determination that the information contained in the labeling for a prescription drug is sufficient to ensure the safe and effective use of the drug by consumers. The Commissioner has concluded that, in order that consumers may safely use oral contraceptive drug products, specific information must be provided to them directly about these drugs.

The primary purpose of that part of section 503(b)(2) of the act, which exempts prescription drugs from the requirement that their labeling contain adequate directions for use and warnings, is to avoid self-diagnosis and self-administration of drugs that require professional supervision for safe use. The requirement that certain prescription drugs be dispensed only when accompanied by printed patient information does not contradict this purpose. Rather, the purpose of such information for oral contraceptives is simply to inform the patient of the advantages and risks associated with the use of these drugs, and thus to provide information that will better ensure their safe and effective use after they have been prescribed by the physician. Nothing in the legislative history of section 503(b) or any other section of the act suggests that Congress intended to preclude a requirement of labeling directed to the patient which will promote safe and effective use of drugs. The Commissioner notes that his authority to issue patient labeling requirements has been preliminarily upheld by the one court that has reviewed the matter. *Pharmaceutical Manufacturers Association* v. *FDA*, Civ. No. 77-291 (D. Del., October 5, 1977) (order denying preliminary injunction).

2. *Manufacturer and dispenser liability.* Several comments contended that patient labeling could have a substantial adverse effect on the legal liability of manufacturers and dispensers. One comment suggested that the partial exemption from strict tort liability afforded drug manufacturers where the drug product is properly prepared and accompanied by adequate directions and warnings would be substantially eroded and possibly eliminated by a patient labeling provision. This outcome would result, it was argued, because it is extemely difficult to write understandable warnings and directions directed to the layman which would be deemed legally adequate. The fact that patient labeling may have been required and drafted by FDA would not protect the manufacturer from an adverse jury determination on the issue of adequacy.

Another comment contended that a patient labeling requirement will expose pharmacists to legal liability predicated on the failure to dispense labeling or on the dispensing of wrong or outdated labeling and urged that FDA consider this possible consequence before taking final action.

The Commissioner does not agree that the imposition of a requirement for patient labeling will necessarily affect adversely the standard of civil tort liability which is imposed on drug manufacturers or dispensers. Whether or not a corporation or individual is to be held liable in a given situation will depend upon the facts surrounding the manufacture, sale, and use of the drug product, and on the nature of the injury. It will also depend on the applicable State law, which, the Commissioner notes, can be adjusted by State Courts and Legislatures in light of factors presented by the use of patient labeling. Moreover, the Commissioner believes that providing patients with written information on the hazards associated with the use of oral contraceptives will as likely result in reduced potential liability, due to improved patient compliance with physician directions and self-monitoring of adverse effects, and a corresponding decrease in drug-induced injury. It may, as well, reduce the incidence of malpractice actions as a result of greater patient awareness that certain risks inevitably accompany drug therapy, and that not all adverse reactions result from defi-

ciencies in the drug or on the part of the physician. In any event, whether particular labeling may alter manufacturers' liability in a given instance cannot be considered as a dispositive factor by the Commissioner in reaching a decision on the proposal. The Commissioner concludes that to assure the safe and effective use of oral contraceptive products it is necessary that the patient be provided directly with certain specific information on oral contraceptive drug products.

With regard to dispenser liability predicated on the distribution of the wrong labeling, the Commissioner is confident that pharmacists can devise distribution systems that will ensure that the proper labeling is distributed with each oral contraceptive drug product. Pharmacists already process and furnish considerable oral and written information along with the drug products that they dispense. Indeed, supplying information regarding drugs along with drug products is a recognized part of the practice of pharmacy. The Commissioner does not believe that the revised patient labeling requirement will impose responsibilities on pharmacists significantly different from those they are already performing with high levels of professional competence.

3. *Who are dispensers?* One comment questioned whether the dispenser distribution requirement, 21 CFR 310.501(a)(1), can be enforced against the drug product dispensers who are not pharmacists. The comment noted that the dispenser of oral contraceptives may be a physician, a nurse, a lay person or semi-professional in a family planning clinic or student health department, as well as a pharmacist, and stated that it is not clear whether any of these persons, other than the pharmacist, can violate the misbranding section of the act.

Neither the reach of this final rule nor the underlying act is confined to pharmacists. The pertinent sections of the act—301, 303, 502 (21 U.S.C. 331, 333, 352)—apply to "any person," which, in the view of the Commissioner, clearly includes persons in the occupational groups mentioned in the comment. When a pharmacist, physician, nurse, or other person dispenses the drug product to the patient, he or she is the dispenser within the meaning of the act and regulation and bears the responsibility for providing the patient with patent labeling. Failure to distribute the labeling or distribution of the wrong labeling would result in the misbranding of the drug product and would subject the dispenser (and the product) to the sanctions for misbranding.

4. *Availability of patient information on oral contraceptives.* Several comments recommended that patient labeling be distributed by the physician at the time he or she prescribes the drug rather than by the dispenser. The comments suggest that dispenser distribution of patient labeling after purchase of the drug may result in little if any improvement in patient compliance with physicians' instructions or patient understanding of the benefits and risks of drug use. If the physician distributes the labeling, any questions or problems raised by the labeling, it is argued, could be answered during the initial consultation, obviating the need to arrange a costly followup. One comment urged in particular that requiring pharmacist distribution of detailed patient labeling would decrease the involvement of doctors in critical discussions concerning benefit and risk and thereby shift the responsibilities of physicians to pharmacists.

The Commissioner acknowledges that, in most cases, the drug product will not be distributed by the physician but rather by the retail pharmacist. In these cases, the Commissioner believes it is appropriate and consistent with the purposes of patient labeling for the dispenser, rather than the prescriber, to distribute patient labeling. Indeed, he views the misgivings concerning pharmacist distribution expressed by these comments as reflecting a misunderstanding of the intended purpose of patient labeling.

Patient labeling serves primarily as an informational adjunct to the physician-patient encounter and is intended to reinforce and augment oral information given by the physician to the patient at the time the drug is prescribed. The physician, who by training and experience is best equipped to tailor discussion of drug therapy to the needs of individual patients, has the primary responsibility for advising patients about such information as directions for use, cautions against misuse, and warnings about possible adverse reactions. Patient labeling will not shift that responsibility to the dispensing pharmacist. Even when physicians rely mainly on written drug information to inform their patients and when patient labeling will, therefore, serve as a primary informational source to patients, that labeling still acknowledges the primary responsibility of the physician and suggests that the patient make decisions regarding use of the drug in consultation with her physician.

The Commissioner does not expect that the dispenser distribution requirement will result in a significantly increased need for followup visits to enable the physician to respond to questions and problems raised by the revised patient labeling. A 1975 survey of women who received the original patient labeling for oral contraceptives indicated that more than 85 percent of the drug's users did not increase the frequency of physician contacts as a result of receiving the labeling. Moreover, if the physician knows that the patient is going to receive patient labeling containing certain information, the physician, when initially prescribing the drug, will be able to discuss that information with the patient and anticipate potential questions.

Finally, as the Commissioner noted in the final regulation for patient labeling for estrogen drug products, the pertinent sections of the act do not appear to authorize regulation of the prescribing function of physicians to the extent contemplated by the comments. The Commissioner recognizes, nevertheless, that certain users may wish to have access to patient labeling at the time the prescribing decision is made and, therefore, he strongly encourages the voluntary distribution of patient labeling in the prescriber's office. Of course, when the physician dispenses the oral contraceptive drug product, he becomes the dispenser and bears responsibility for distributing the patient labeling with the drug product. In these cases, the patient will have the opportunity to question and consult with the physician about the labeling at the time the initial prescribing decision is made. The Commissioner hopes that manufacturers in their promotional campaigns will supply nondispensing physicians with the patient labeling pieces and other supplies necessary to carry out the voluntary distribution program.

5. *Physician's discretion in distribution of labeling.* One comment suggested that distribution of labeling to the patient should not be mandatory because in some situations it may not be in the best interests of the patient to receive detailed information. In these situations, it is argued, the physician should be allowed to exercise his best judgment and request that the labeling not be given to the patient.

The Commissioner acknowledges that there may be drugs for which the distribution of patient labeling might properly be discretionary with the physician. If patient labeling requirements for such drugs are implemented, the Commissioner would consider providing physicians with an option to direct the dispenser to withhold the labeling. Because oral contraceptives are ordinarily taken electively by healthy women who have available to them alternative methods of treatment, and because of the relatively high incidence of serious illnesses associated with their use, the Commissioner believes that users of these drugs should, without exception, be furnished with written information telling them of the drug's benefits and risks. The Commissioner concludes, therefore, that a provision allowing discretionary withholding of the labeling is not appropriate, and no such option has been provided.

6. *Labeling for indication other than contraception.* One comment suggested that pharmacists and physicians be exempted from providing patient labeling when oral contraceptives are prescribed for approved indications other than contraception. Alternatively, it was recommended that labeling be amended to include a discussion of noncontraceptive uses. The comment argued that failure to provide for noncontraceptive uses, either by exemption or otherwise, would result in confusion or unwarranted concern on the part of the patient receiving the drug for noncontraceptive purposes.

The Commissioner acknowledges that certain oral contraceptive products are prescribed for approved indications other than contraception (for example, hypermenorrhea and endometriosis). However, compared to use for contraception, the use of the drug for other indications is extremely small, representing less than 2 percent of total drug product consumption. The Commissioner believes that patients receiving oral contraceptives for noncontraceptive indications should receive the patient labeling pieces since much of the information, including all the information regarding the dangers of drug use, is equally pertinent when the drug product is used for other indications. Information contained in the patient labeling that plainly does not pertain to noncontraceptive uses, for example, information regarding effectiveness of other means of contraception, obviously will not apply, and can be disregarded by the patient. Even where there is a potential for confusion or concern on the part of the noncontraceptive user, it can be successfully addressed by the physician in discussions with the patient at the time the prescribing decision is made. The Commissioner agrees, nevertheless, that in the interests of fully informing noncontraceptive users of oral contraceptives, manufacturers and other drug labelers should have an opportunity to add to the labeling a discussion of the other approved uses of the drug. Accordingly, the final regulation will provide that, for those oral contraceptive drug products with approved new drug applications for indications in addition to contraception, the labeling may identify these other approved indications if it states as well that the information in the patient labeling relative to contraindications, the dangers of oral contraceptives, and the safe use of the drug also applies when the drug is used for these other indications.

7. *Distribution of labeling in health-care institutions.* One comment noted that in health-care institutions providing unit dose drug distribution to inpatients, it is impractical to provide patient labeling whenever a drug is dispensed because the drug is dispensed one dose at a time. The comment stated, moreover, that in institutional settings, pharmacists, physicians, and nurses closely monitor a therapeutic course and that a patient can rely on personal contact with these professionals to assure safe and effective drug use, making distribution of explanatory labeling less necessary. The comment recommended that the proposed distribution requirements be revised by permitting health-care institutions to provide patient labeling to patients before administration of the first dose, or, if a long-term-care facility, before first administration and every 30 days thereafter.

As provided in the final rule requiring patient labeling for estrogen drug products (see 42 FR 37636), the Commissioner agrees that hospitals and other health-care institutions should have some flexibility in meeting requirements regarding distribution of patient labeling. The commissioner concludes that it would be impractical and unnecessary to require patient labeling to be made available to the hospitalized or institutionalized patient every time a drug is administered. The final regulation, therefore, has been revised by adding a new sentence to § 310.501(a)(1) which states that in acute-care hospitals or long-term-care facilities, the requirements of § 310.501(a) are met if patient labeling (both the summary and detailed patient labeling) is provided to the patient before first administration of the drug, and every 30 days thereafter. This revision in the proposed regulation answers the objection raised by the comment, but avoids the somewhat complicated procedure that would result from having different requirements for acute-care and long-term-care facilities.

8. *Type size requirements.* Two comments objected to the proposed requirement that 9-point type size be used in the detailed patient labeling. The comments suggested that this requirement would have a significant environmental and inflationary impact by requiring replacement of currently used printing presses and significantly increasing the demand for paper and energy. The comments recommended that the minimum type size requirement be changed to 6-, 7-, or 8-point type, and suggested that this change would result in substantial economic and environmental savings with no loss of legibility.

The Commissioner believes that an objective standard specifying minimum requirements for the printing of detailed patient labeling is necessary to ensure its adequate legibility. However, the Commissioner is persuaded that specifying a particular point type size is not, by itself, sufficient. He notes the wide variation in legibility of printed material that is possible with changes in type style, lightness of the type, and spacing of the type on the line and between the lines. Accordingly, the final regulation has been revised to specify that the minimum type size shall be at least 1/16 inch in height. The height pertains to lowercase letters and it is the lowercase "o" or its equivalent that shall meet the minimum standard. The body copy shall be 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters. The Commissioner believes that this requirement will ensure adequate legibility without causing significant disruptions to presently utilized printing and packaging processes.

9. *Labeling needs of special user populations.* One comment recommended that patient labeling be made available in Spanish and Portuguese and other languages where a need is demonstrated. Another comment pointed to the needs of blind users of oral contraceptives, suggesting that patient labeling should be made available in braille or on tape.

The Commissioner does not believe that he can presently justify the required preparation and distribution of labeling meeting the needs of special user populations. The practical difficulties in preparing complete and faithful translations of labeling into all the languages spoken in the United States are likely to be significant. Moreover, such a requirement would impose significant administrative and logistical burdens on manufacturers and dispensers in preparing, storing, and distributing proper labeling with each drug product covered by a patient labeling regulation. However, the Commissioner points out, under 21 CFR 201.15(c) for labeling distributed solely in the Commonwealth of Puerto Rico or in a territory where the predominant language is one other than English, the predominant language may be substituted for English. Although in the rest of the United States all required labeling must appear in English, the regulations do not preclude the distribution of labeling in a language other than English or in a special format or in braille along with the conventional English language labeling. The Commissioner encourages the preparation of labeling meeting the needs of special user populations as long as such labeling fully and faithfully complies with the requirements of the regulation.

10. *Brief summary requirement.* Several comments objected to the requirement that the user receive, in addition to detailed patient labeling, a brief summary containing certain essential points of information also contained in the longer detailed patient labeling. The comments suggested that the use of two inserts, one a summary of the other, is redundant and imposes an

unnecessary and avoidable burden on manufacturers and dispensers. Another comment suggested, moreover, that the availability to the user of two pieces of patient labeling, in addition to physician labeling, could readily confuse the patient and not contribute to her understanding and compliance with physician instructions.

While it is true that the information contained in the brief summary is also described in the detailed patient labeling, the Commissioner does not agree that required distribution of the brief summary in addition to detailed patient labeling is unnecessary. The brief summary is intended to perform a function complementary to the function served by detailed patient labeling. As noted in the preamble to the proposed rule, the value of the brief summary is twofold: (1) the summary is short enough to be included within the package dispensed to the patient and would be more likely to be available to the patient throughout the life of the package; and (2) the summary can be quickly and easily read by the patient, will call her attention to the longer labeling piece, and will urge her to read the complete labeling. The Commissioner concludes that these advantages outweigh any possible additional burden to manufacturers and dispensers and that the brief summary requirement should be retained.

The Commissioner does not anticipate that the availability of three pieces of labeling will result in patient confusion. The information contained in the brief summary is consistent with the information contained in the detailed patient labeling and physician labeling. The brief summary, by identifying and highlighting some of the most important information also contained in the more detailed labeling piece, should, therefore, promote rather than decrease patient understanding of the relevant material.

11. *Expedited effective date.* Two comments objected to the requirement in § 310.501(a)(7) (§ 310.501(a)(5) as proposed) that revised detailed patient labeling be furnished by the manufacturer or labeler to the wholesaler and retailer in sufficient numbers to permit any retail purchaser to obtain the labeling with the product on or after the effective date. The comments recommended that this "catch-up" provision be deleted and that the effective date be based on the date on which the oral contraceptive drug products are packaged. One comment complained that as manufacturers do not know the exact inventory of oral contraceptives stocked by each drugstore and wholesaler, they will be obliged to significantly oversupply to ensure adequate coverage. The comment noted further than the expedited effective date will have a major adverse impact on dispenser costs of collation, storage, and distribution of oral contraceptive drug products and labeling.

The Commissioner believes that it is in the best interests of the public health that the revised patient labeling be provided to patients as soon as possible. To base the effective date on the time when the drug product is packaged would make the provision of the labeling to consumers contingent upon individual manufacturers' inventories, and could result in significant delays in providing patients with the labeling. The intent of the effective date provision is to prevent any further distribution of a drug product not containing the revised detailed patient labeling information without, at the same time, requiring a potentially costly and time consuming recall and repackaging of oral contraceptive products already in the channels of distribution.

The Commissioner acknowledges that an expedited effective date may require some increased effort by manufacturers and dispensers for a short time. However, in exempting the brief summary from the catchup requirements, the necessity of recalling products already in distribution channels and repackaging these products with the new brief summary is obviated and the burden on manufacturers and dispensers reduced to what the agency is confident is a manageable level. In this respect, the Commissioner notes that the effective date provision is identical, as a practical matter, to that contained in the final regulation for patient labeling for estrogen drug products, which was put into effect October 18, 1977 without the consequences cited in the comments.

Although physicians who dispense these drugs are considered to be dispensers under the regulation, the Commissioner has concluded that it would be impracticable to require the forwarding, before the effective date, of separate patient labeling to physicians for those products already in their possession. Accordingly, the requirement that oral contraceptive drug products be dispensed with patient labeling will not be effective for supplies in the possession of physicians on the effective date, but will apply only to supplies received thereafter.

12. *Pharmacist counseling.* A professional organization recommended that the proposed rule be revised to require the inclusion of a statement in the brief summary encouraging the patient to ask her pharmacist any questions about oral contraceptives and their uses. The comment suggested that pharmacist counseling provides a valuable health service by increasing understanding about and compliance with a therapeutic regimen. The comment noted the importance of identifying the pharmacist as an accessible source of information regarding oral contraceptive drug use.

The Commissioner realizes the valuable contribution that can be made by pharmacists as well as other health professionals in responding to consumers' questions about the contents of patient labeling. However, the Commissioner believes that the availability and usefulness of pharmacist counseling can be more appropriately and efficiently communicated by professional organizations and consumer groups as part of their general program to educate consumers about drug use and safety. Patient labeling is intended primarily as a vehicle to bring important specific information about specific drugs to the attention of the patient, rather than as a vehicle to educate the consumer on general matters pertaining to drug usage. Nevertheless, while this regulation is primarily concerned with identifying certain specific points of information that the patient labeling must include, it does not prohibit the manufacturer from adding any other information that he deems useful which does not misbrand the drug. The Commissioner would not object to the inclusion of a statement encouraging consumers to direct questions concerning oral contraceptive patient labeling to their pharmacists as well as other health professionals.

13. *Distribution of detailed patient labeling.* One manufacturer objected to § 310.501(a)(6)(ii) (§ 310.501(a)(4)(ii) as proposed), which would require that detailed patient labeling be included in or accompany each package intended to be dispensed to the patient. The comment argued that this requirement would substantially increase the cost of oral contraceptives to the consumer as well as to the manufacturer by requiring that the patient be furnished detailed patient labeling not only when the original prescription is filled but with every refill, requiring 12 detailed labeling pieces a year.

To provide for the continuing availability of detailed patient labeling for the entire period that a patient uses oral contraceptives, the Commissioner concludes that the patient should receive the labeling whenever the drug is dispensed to her. The provision of detailed patient labeling with every new prescription or renewal will assure, moreover, that in the event the labeling is revised the patient will receive the most current version of patient labeling with each new purchase.

In any event, as oral contraceptives are frequently prescribed and refilled for periods longer than 1 month, the Commissioner does not anticipate that the user will ordinarily receive 12 pieces of detailed patient labeling a year as argued by the comment. Under this regulation only one detailed label-

ing piece must be included in or accompany each package dispensed to the patient. Thus, if a patient receives a prescription for a 6-month supply of oral contraceptives, the dispenser must include only one detailed patient labeling piece in or accompanying the entire package dispensed to the patient. This requirement applies, notwithstanding the fact that the entire package may be made up of a number of individual prepackaged units.

Content of patient labeling. Section 310.501(a) sets forth the information to be included in the brief summary and detailed patient labeling. A number of comments were received on these requirements. The Commissioner's responses to the significant comments on this part of the regulation follow.

14. One comment suggested that in § 310.501(a)(1) the second sentence be revised to indicate that the required information must be put into lay language in the actual patient labeling. The comment stated that a literal reading of the proposed requirement would result in the reproduction of all medical terms as specified in the rule.

The Commissioner agrees that the intent of the regulation is to provide labeling in language that is understandable to the lay public. He thus agrees with the comment and § 310.501(a)(1) is revised accordingly.

15. One comment suggested that a requirement be included in both the brief summary and detailed labeling pieces of information concerning the contraindication of oral contraceptive use for women with sickle cell trait or disease.

No references were submitted in support of this comment, and the Commissioner is not aware of any data that warrant contraindicating use of oral contraceptives in patients with sickle cell trait or disease. The comment is therefore rejected.

16. One comment suggested that § 310.501(a)(2)(viii) (§ 310.501(a)(2)(vii) as proposed) requiring a statement in the brief summary that oral contraceptives are of no value in the prevention or treatment of venereal disease be revised to indicate that oral contraceptive use increases susceptibility to certain kinds of venereal disease.

No data have been submitted to support this statement. It is not known at present whether oral contraceptive use increases susceptibility to venereal disease. This comment is therefore also rejected.

17. One comment recommended that the regulation be revised to require a statement in the detailed patient labeling listing malignant hepatic adenoma among the serious side effects associated with oral contraceptive use.

For all listed serious side effects, an association between oral contraceptive use and an increased risk of the particular side effect has been well established. However, in the case of malignant hepatic adenoma, only a few cases have been reported and no definite association with oral contraceptive use has been demonstrated. Therefore, this comment is rejected. However, if evidence of such an association becomes available, the Commissioner will act promptly to require the inclusion of the information in the labeling or take other action necessary in the public interest.

18. One comment noted that the risk of myocardial infarction is absent from both the brief summary and detailed patient labeling requirements. The comment urged a revision to require a statement regarding risk of myocardial infarction, since the absolute risk of death due to myocardial infarction, though not the relative risk, is greater than the combined risk of death from all other known side effects.

Because an association between oral contraceptive use and myocardial infarction is now established, the Commissioner agrees that this risk category should be added. Section 310.501(a)(2)(iv) and (3)(viii) (§ 310.501(a)(3)(vii) as proposed) is revised accordingly.

19. One comment objected to the wording in § 310.501(a)(3)(viii) (§ 310.501(a)(3)(vii) as proposed): "The ability of estrogen to cause malignant tumors in animals, endometrial cancer in women, and the evidence that sequential oral contraceptives may increase the risk of endometrial cancer in women must be mentioned." The comment contends that, as the medical findings on this subject are equivocal, the statement is incorrect in suggesting an absolute relationship between estrogen use and endometrial cancer.

The Commissioner believes that there is a well-established association between chronic estrogen use in postmenopausal women and an increased risk of endometrial cancer. However, the Commissioner agrees with the comment that the statement that estrogen use causes endometrial cancer may be subject to misinterpretation. He also believes the section should contain a clearer description of the appropriate inference to be made in the context of this regulation from animal data. To clarify, therefore, the sentence that begins "The ability of estrogen to cause * * *," is changed to read as follows: "The following shall be mentioned: (*a*) Estrogens have been shown to cause cancer in animals, which showing justifies the inference that estrogens may cause cancer in humans; (*b*) there is strong evidence that estrogen use increases the risk of endometrial cancer in postmenopausal women; (*c*) there is some evidence that sequential oral contraceptives (which are no longer marketed) may increase the risk of endometrial cancer in women; (*d*) studies of an association between oral contraceptives and breast cancer are largely negative except for a suggestion of increased risk (1 study) in women with benign breast disease, and there is no evidence of an increased risk of uterine cancer in users of oral contraceptives other than sequentials."

20. One comment suggested that a statement be required indicating that oral contraceptive use alters the acid environment of the vagina, allowing overgrowth of yeast, hemophilus, and trichomonas.

No references were submitted in support of the comment. The Commissioner is not aware of any evidence that oral contraceptive use is associated with an overgrowth of hemophilus or trichomonas. Physician labeling does indicate that vaginal condidiasis has been reported in patients receiving oral contraceptives and is believed to be drug related. However, as the incidence of candidiasis is neither common nor serious, the Commissioner concludes that it is not necessary to specifically require inclusion of the disease in the listing of side effects in the patient labeling.

21. A comment urged that § 310.501(a)(3)(ix) (§ 310.501(a)(3)(viii) as proposed) be revised to require mention of infertility. The comment noted that for women who have not borne previous children a significant difference in fertility remains 2 years after they have stopped using the oral contraceptive.

The Commissioner agrees that delayed return of fertility should be listed in § 310.501(a)(3)(ix) as one of the "other serious effects." The regulation is revised accordingly.

22. One comment suggested that suicide be included in the required listing of serious side effects. The comment stated that the Royal College of General Practitioners' study of oral contraceptive users reported twice the number of suicides in oral contraceptive users as in nonusers.

Although it is true that the British study reported an increased incidence in suicide among users of oral contraceptives, the same study reported no evidence that severe depression (which would be the type most likely associated with suicide) is more common in oral contraceptive users than in nonusers. Furthermore, the reported increased incidence of suicide could very well be due to a number of factors other than use of the drug itself, and, absent other information, the Commissioner believes the finding is of little statistical significance. The comment is therefore rejected.

23. One comment addressed the second sentence in § 310.501(a)(3)(viii) (§ 310.501(a)(3)(vii) as proposed) which

requires the listing of thrombophlebitis, pulmonary embolism, retinal artery thrombosis, and stroke as serious side effects and which state parenthetically that the relation of these illnesses to estrogen dose is to be mentioned. The comment argued that the relation of estrogen dose to each of these illnesses is not known and that, to clarify, the words "where known" should be added to the parenthetical remark.

The two studies upon which these requirements are based (they are cited in the physician labeling text) suggest that thromboembolism as a disease entity is estrogen dose-related. In fact, the Vessey study (Inman, W. H. W., M. P. Vessey, B. Westerholm, and A. Engelund, "Thromboembolic Disease and the Steroidal Content of Oral Contraceptives: A report to the Committee on the Safety of Drug," British Medical Journal 2:203-209, 1970) shows a strong correlation between estrogen content and thrombophlebitis, pulmonary embolism, and stroke (cerebral thrombosis). Although retinal artery thrombosis (a relatively rare type of thromboembolism) is not specifically mentioned in the study, it would be unreasonable to assume that it, unlike other types of thromboembolism, is not estrogen dose-related. To add the term "where known" to the parenthetical remark would not be in keeping with the general findings of the relevant scientific literature. This comment is therefore rejected.

24. Several comments suggested that the proposal be revised to require a statement in the patient labeling regarding an association between oral contraceptive use and certain vitamin deficiences. In particular, it was suggested that mention be made of an association between oral contraceptive use and vitamin B-6 deficiency as well as serum folate level depression.

The Commissioner rejects these comments. The association between oral contraceptive use and vitamin B-6 deficiency is disputed and not well defined. Moreover, the clinical significance of such a deficiency, if it does exist, has not been well established.

While it has been shown that serum folate levels may be depressed with oral contraceptive use, it is not certain that this represents a true vitamin deficiency because no clinical significance has been attributed to the decreased level.

25. One comment addressed the fourth sentence of § 310.501(a)(3)(viii), which requires a statement that studies of an association between oral contraceptives and breast cancer are largely negative except for a suggestion of increased risk (one study) in women with benign breast disease, and that there is no evidence of an increased risk of uterine cancer in users of oral contraceptives other than sequentials. The comment suggested that the wording of this proposed requirement would become outdated if future references were published which also suggest an increased risk of breast cancer in oral contraceptive users. The comment recommended the adoption of the following: "There should also be a statement concerning those studies of an association between oral contraceptives and breast cancer that are largely negative in contrast to such studies that suggest an increased risk in certain groups of women; the statement shall also relate such evidence that would indicate increased risk of uterine cancer in users of oral contraceptives other than sequentials."

The Commissioner rejects this comment. To include the wording suggested by the comment "* * * in contrast to such studies that suggest an increased risk in certain groups of women * * *" would not be correct as it would imply that there currently exists more than one study to the contrary. Also the recommended phrase "* * * the statement shall also relate such evidence that would indicate increased risk of uterine cancer in users of oral contraceptives other than sequentials" would incorrectly suggest that there currently exists such evidence. No such evidence currently exists. The Commissioner concludes that the current requirement accurately reflects the present state of the scientific literature.

26. One comment recommended that the discussion of the risks of serious side effects associated with oral contraceptive use should specifically mention cigarette smoking as an independent factor which significantly increases the risk of myocardial infarction in drug users. The comment presented a statistical analysis of a British retrospective study of oral contraceptive users to demonstrate that the risk of myocardial infarction in women who smoke and use oral contraceptives is considerably greater than the sum of the risks for those women who smoke and do not use oral contraceptives and the risks for those women who only use oral contraceptives and do not smoke. The comment urged that the discussion of serious side effects would be of most value to all drug users—both smokers and nonsmokers—if this "synergistic" interaction between smoking and oral contraceptive use were expressly described.

The Commissioner has carefully reviewed the comment to determine the need for revisions in this final rule as well as in the guideline patient labeling text. Additionally he has reviewed three recently published studies, all of which suggest that smoking along with oral contraceptive use markedly increases the risks of serious cardiovascular side effects. (Ory, H. W., "Association Between Oral Contraceptives and Myocardial Infarction." Journal of the American Medical Association, 237:2619-2622, 1977; Jain, A. R., "Mortality Risk Associated with the Use of Oral Contraceptives," Studies in Family Planning, 8:50-54, 1977; Beral, V., "Mortality Among Oral Contraceptives Users," Lancet, 2:727-731, 1977.) A revised draft of the patient labeling based on the new information and analyses was presented to the FDA's Obstetrics and Gynecology Advisory Committee November 17, 1977. The Committee recommended that the patient labeling be revised to reflect the variable risks for smokers and nonsmokers of suffering serious cardiovascular side effects. The Committee also recommended the inclusion in the labeling of a prominent boxed warning advising women who use oral contraceptives not to smoke. A copy of the transcript of the advisory committee's discussion of oral contraceptive labeling has been placed on file in the office of the Hearing Clerk, FDA.

The Commissioner agrees with the Committee that the role that smoking plays in increasing the risks of serious cardiovascular side effects should be brought to the attention of all women who are presently using or contemplating the use of oral contraceptives. Accordingly, he has included in this final rule a requirement for a boxed warning in both the brief summary and the detailed patient labeling stating that smoking increases the risks of serious adverse effects on the heart and blood vessels, and advising women who use oral contraceptives not to smoke. He is making two additional revisions: (1) § 310.501(a)(3)(viii) (§ 310.501(a)(3)(vii) as proposed) is revised to provide for a discussion of the relationship between the occurrence of serious side effects and age, smoking, and other conditions; and (2) § 310.501(a)(3)(xii) (§ 310.501(a)(3)(xi) as proposed) is revised to require that the comparison of risk of death from various contraceptive methods describe the risk faced by both smokers and nonsmokers who use oral contraceptives. These revisions should provide women with a clearer understanding of the effects of smoking on the risks of oral contraceptive use, an understanding which in the Commissioner's view is essential for a proper assessment of the drug's safety.

27. *Ongoing distribution of patient labeling.* The Commissioner is also revising § 310.501(a)(6)(iii) (§ 310.501(a)(4)(iii) as proposed) to provide that in the case of oral contraceptives in bulk packages intended for multiple dispensing, a sufficient number of patient labeling pieces (both the brief summary and detailed patient labeling) "shall be included in or shall accompany each bulk package" to assure that both pieces can be

furnished with each package dispensed to every patient. The revision is intended to make clear that patient labeling must physically accompany the drug product but need not be actually placed inside the immediate bulk package container.

The Commissioner anticipates that manufacturers and labelers will employ a reliable statistical method to determine the sufficiency of the number of patient labeling pieces to be included in or with each bulk package. He recognizes, however, that in some cases additional patient labeling pieces may, for a variety of reasons, be required. The Commissioner is therefore adding a sentence to § 310.501(a)(6)(iii) to provide that the manufacturer or labeler may also employ a supplementary distribution system to supply additional patient labeling to the dispenser. That system may not, however, act as a substitute for the requirement that patient labeling be supplied in or with each bulk package.

28. *Patient labeling and self-medication.* In response to a comment on the estrogen patient labeling proposal, the Commissioner revised the estrogen patient labeling final rule to require a statement advising the patient that the drug had been prescribed for the individual alone and cautioning the individual against giving the drug to anyone else. The Commissioner has concluded that a similar cautionary statement should be included in oral contraceptive patient labeling and has revised the regulation accordingly.

29. A comment suggested that the procedural regulation governing the adoption into use of labeling without advance approval by FDA should be specifically identified.

The Commissioner agrees. To clarify the regulatory procedure by which holders of new drug applications for oral contraceptive drug products shall implement the patient labeling requirement, § 310.501(a) (9) (§ 310.501(a) (7) as proposed) is revised to state that supplements must be submitted under § 314.8(d) of the regulations.

30. *Status of patient labeling text.* Several comments objected to the publication of the patient labeling text in a notice separate from the rule requiring the labeling. The comments argue that this procedure removes changes in patient labeling language from the full and open comment required for rulemaking under the Administrative Procedure Act. Choice of language and editorial style, it is argued, may be substantive issues and as such properly subject to publication and comment procedures. One comment contended that the fact that a large number of comments have, in the past, been submitted to FDA in response to a notice of proposed rulemaking relating to patient labeling indicates the widespread interest of the public in these matters, and it is that type of input which is contemplated by the Administrative Procedure Act.

The Commissioner realizes the value of public participation in drafting the best possible patient labeling text; in fact, he has invited comments from interested persons on the labeling text and has carefully considered the numerous comments that have been received. However, the Commissioner believes that the information that the regulation requires be provided to users of oral contraceptives, in particular, information on thromboembolic and thrombotic disorders, cancer, and adverse effects on the exposed fetus, is of such significance to the public health that he cannot justify the long delays in communicating this information to oral contraceptive users that would result from notice and comment consideration of the labeling text comments.

The Commissioner concludes, therefore, that the present procedures should be retained and that the patient labeling text should not be incorporated into the final rule.

The objections to the procedure employed in separately publishing the notice misconstrue the legal purpose and effect of the patient labeling text. The Commissioner advises that the text of the patient labeling is not a substantive formal rule. The labeling is, rather, a guideline which, while stating the agency's views of how the requirements for labeling for these products can be met, does not preclude changes based on the best judgment of individual companies, as long as the labeling that is distributed still conforms to the regulations and applicable sections of the act. The procedures employed are intended to effect more timely publication of approved labeling reflecting the most current medical and scientific learning and are in conformance with FDA's procedural regulations (21 CFR 10.1 et seq.). If the agency were to take action against a product, it would not rely solely on the guideline text but would undertake to prove a violation based on the underlying rule and statute. The published labeling could, however, serve as evidence of such a violation.

Section 310.501(a)(8) requires that FDA make available and publish in the FEDERAL REGISTER patient labeling for oral contraceptives which is responsive to all items specified in § 310.501(a) (2) and (3). The suggested text of patient labeling that met the requirements of the proposed rule was published in the FEDERAL REGISTER of December 7, 1976 (41 FR 53630) and revised in the FEDERAL REGISTER of May 27, 1977 (42 FR 27303). Because of comments received on the proposed rule, as well as comments and new information received on the previously published versions of the patient labeling text, the Commissioner has further revised the patient labeling text.

Published elsewhere in this issue of the FEDERAL REGISTER is the precise language of the revised patient labeling text that will be considered to meet the requirements of the final rule. As previously stated, the Commissioner advises that this text is intended as a guideline (21 CFR 10.90), which, if followed, will enable any person to comply with the requirements of § 310.501(a).

Those manufacturers and suppliers who have deferred preparing patient labeling until the publication of the final rule have until April 3, 1978 to implement the final regulation. For those manufacturers and suppliers who elected to use the December 7, 1976 guideline text (as revised on May 27, 1977), this earlier text will continue to meet the requirements of § 310.501(a) until May 31, 1978. After May 31, 1978, this earlier version of the labeling text can no longer be relied upon as meeting the requirements of § 310.501(a).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by revising § 310.501(a) to read as follows:

§ 310.501 Preparations for contraception; labeling directed to the patient.

(a) *Oral contraceptives.* (1) The Commissioner of Food and Drugs concludes that the safe and effective use of oral contraceptive drug products requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Information in lay language concerning effectiveness, contraindication, warnings, precautions, and adverse reactions shall be furnished to each patient receiving oral contraceptives. This information shall be given to the patient by the dispenser in the form of a brief summary of certain essential information included in each package dispensed to each patient, and in a longer, detailed labeling piece in or accompanying each package dispensed to each patient. Patient labeling for drug products dispensed in acute-care hospitals or long-term-care facilities will be considered to have been provided in accordance with this section if provided to the patient before administration of the first oral contraceptive and every 30 days thereafter, as long as the therapy continues.

(2) The brief summary shall specifically include the following:

(i) A statement that oral contraceptives are effective, but that any failure to take them in accordance with the recommended dosage increases the change of pregnancy.

(ii) A statement of the specific items of history to be told the physician that would lead the physician not to prescribe oral contraceptives (i.e., the contraindictions to use).

(iii) A statement that oral contraceptives should be taken only under the continued supervision of a physician.

(iv) A listing of the serious side effects or oral contraceptives, such as thrombophlebitis, pulmonary embolism, myocardial infarction, retinal artery thrombosis, stroke, benign hepatic adenomas, induction of fetal abnormalities, and gallbladder disease.

(v) A statement in the form of a boxed warning that cigarette smoking increases the risks of serious side effects on the heart and blood vessels from oral contraceptive use, and advising women who use oral contraceptives not to smoke.

(vi) A statement of the most common side effects, such as nausea and vomiting, weight change, change in menses, and breast tenderness.

(vii) A statement that the estrogen in oral contraceptives has been found to cause breast cancer and other cancers in certain animals and that these findings suggest that oral contraceptives may also cause cancer in humans but that studies to date in women taking currently marketed oral contraceptives have not confirmed that oral contraceptives cause cancer in humans.

(viii) A statement that oral contraceptives are of no value in the prevention or treatment of venereal disease.

(ix) A statement calling attention to the detailed patient labeling and a recommendation that it be carefully read.

(3) The detailed patient labeling shall be a separate printed leaflet independent of any additional materials. It shall specifically include the following:

(i) Name of the drug.

(ii) Name and place of business of the manufacturer, packer, relabeler or distributor.

(iii) A statement that oral contraceptives are effective but can cause certain serious side effects.

(iv) A statement that oral contraceptives should be taken only under the continued supervision of a physician.

(v) A statement of the effectiveness of oral contraceptives, including the differences in effectiveness among different types and the relationship between effectiveness and estrogen dosage.

(vi) A summary of the effectiveness of other methods of contraception.

(vii) A boxed warning stating that cigarette smoking increases the risk of serious side effects on the heart and blood vessels from oral contraceptive use and advising women who use oral contraceptives not to smoke.

(viii) A warning regarding the serious side effects of oral contraceptives, including the relative risk (where known) faced by users compared to nonusers and the relationship of the side effects to age, smoking, and other conditions. The side effects mentioned shall include thrombophlebitis, pulmonary embolism, retinal artery thrombosis, stroke (the relation of these to estrogen dose shall be mentioned), myocardial infarction, benign hepatic adenomas, induction of fetal abnormalities, and gallbladder disease. The following shall be mentioned: (*a*) Estrogens have been shown to cause cancer in animals, which showing justifies the inference that estrogens may cause cancer in humans; (*b*) there is strong evidence that estrogen use increases the risk of endometrial cancer in postmenopausal women; (*c*) there is some evidence that sequential oral contraceptive (which are no longer marketed may increase the risk of endometrial cancer in women; (*d*) studies of an association between oral contraceptives and breast cancer are largely negative except for a suggestion of increased risk (one study) in women with benign breast disease, and there is no evidence of an increased risk of uterine cancer in users of oral contraceptives other than sequentials.

(ix) A statement of common side effects, including nausea and vomiting, weight change, darkening of the skin, changes in menses, and a statement of other serious side effects, including worsened migraine, and worsened heart or kidney disease due to fluid retention, growth of uterine fibroid tumors, depression, jaundice, delayed return to fertility, blood pressure elevation, decreased glucose tolerance and elevated blood lipids.

(x) A statement of reported side effects not definitely related to oral contraceptive use.

(xi) A statement cautioning the patient to consult her physician before resuming the use of the drug after childbirth, especially if she intends to breastfeed the baby, pointing out that the hormones in the drug are known to appear in the milk and may decrease the flow.

(xii) A comparison of the risk of death from various contraceptive methods (oral contraceptives in smokers, oral contraceptives in nonsmokers, IUD, condom or diaphragm, condom or diaphragm with abortion in the event of pregnancy, no contraception but abortion in the event of pregnancy, and no contraception or abortion).

(xiii) A statement of the specific items of history to be told the physician which would lead the physician not to prescribe oral contraceptives (i.e., the contraindications to use).

(xiv) A statement of specific items of history that might cause the physician to suggest another method (e.g., risk factors for myocardial infarction, family history of breast cancer or past history of fibrocystic disease or abnormal mammogram, gallbladder disease) or would require the physician's special attention (e.g., migraine, asthma, epilepsy, heart or kidney disease, fibroids, history of depression).

(xv) A statement that jaundice, depression, breast lumps, and the particular warning signals of thromboembolic disease, thrombotic disease, and ruptured hepatic adenoma, should be reported to the physician.

(xvi) A statement of how to take oral contraceptives properly and what to do in the event of one or two missed periods.

(xvii) A statement cautioning the patient that this drug has been prescribed for the particular individual only and that the drug must not be given to others.

(xviii) The date, identified as such, of the most recent revision of the labeling prominently placed immediately after the last section of such labeling.

(4) For those oral contraceptive drug products with approved new drug applications for indications in addition to contraception, both the brief summary and detailed patient labeling may identify these other indications. If the other indications are identified, the labeling must specifically include a statement that the information in the patient labeling relative to contraindications, the dangers of oral contraceptives, and the safe use of the drug are also applicable when these drugs are used for these other indications.

(5) The detailed patient labeling shall be printed in accordance with the following specifications:

(i) The minimum letter size (lowercase letter "o" or its equivalent) shall be not less than 1/16 inch in height.

(ii) The body copy shall contain 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters.

(6) Patient labeling for each oral contraceptive drug product shall be provided to the retailer by the manufacturer, packer, relabeler, or distributor as follows:

(i) The brief summary patient labeling shall be included in each package intended to be dispensed to the patient.

(ii) The detailed patient labeling shall be included in or shall accompany each package intended to be dispensed to the patient.

(iii) In the case of oral contraceptive drug products in bulk packages intended for multiple dispensing, a sufficient number of patient labeling pieces shall be included in or shall accompany each bulk package to assure that both pieces can be furnished with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispenser to include both patient labeling pieces

(the brief summary to be in the package and the detailed labeling piece either in or accompanying the package) with each package dispensed to the patient. This section does not preclude the manufacturer or labeler from distributing additional patient labeling pieces to the dispenser.

(7) An oral contraceptive drug product that is not labeled as required by paragraph (a) of this section and that is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce is misbranded under section 502 of the act. However, an oral contraceptive drug product packaged before the effective date of this paragraph is not misbranded if adequate numbers of copies of the detailed patient labeling required by this paragraph are furnished to wholesalers or retailers to permit any retail purchaser after the effective date to obtain such labeling with the product. The requirement that any oral contraceptive drug product be dispensed with detailed patient labeling, as applied to physicians, shall not be effective for supplies in their possession on the effective date, but shall apply only to supplies received thereafter.

(8) The Food and Drug Administration has available patient labeling for oral contraceptive drug products that includes information responsive to all the items specified in paragraph (a) (2) and (3) of this section. The labeling has been published in the FEDERAL REGISTER and updated versions will continue to be published as guides when changes occur. Any person may rely on the newest version of this labeling as complying with paragraph (a) (2) and (3) of this section after the effective date of this paragraph.

(9) Holders of new drug applications for oral contraceptive drug products that are subject to paragraph (a) of this section must submit supplements under § 314.8(d) of this chapter to provide for the labeling required by paragraph (a) (2) and (3) of this section on or before April 3, 1978. The labeling may be put into use without advance approval by the Food and Drug Administration.

EFFECTIVE DATE: This regulation shall be effective April 3, 1978.

(Secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)).)

Dated: January 19, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-2300 Filed 1-24-78; 10:43 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75N-0304]

ORAL CONTRACEPTIVE DRUG PRODUCTS

Physician and Patient Labeling

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Based on public comments received and on new information, the Food and Drug Administration (FDA) is revising the text of physician and patient labeling for oral contraceptive drug products.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: The guideline texts of physician and patient labeling for oral contraceptive drug products were previously published in a notice in the FEDERAL REGISTER of December 7, 1976 (41 FR 53633) and amended in the FEDERAL REGISTER of May 27, 1977 (42 FR 27303).

The Food and Drug Administration is charged with assuring that drugs are safe and effective for their intended use and that their labeling provides adequate information for such use and is not false or misleading. The full disclosure of information to physicians concerning warnings and contraindications is an important element in the discharge of that responsbility. The statutory scheme anticipates that new information concerning the safety and effectiveness of marketed drugs may require that FDA prescribe changes in their labeling to reveal limitations on use or warn of previously unanticipated hazards.

A considerable amount of new information about the risks of oral contraceptive use has recently been reported in the scientific literature. This information, in particular information contained in several studies which suggests that oral contraceptive users who smoke increase significantly their risk of suffering serious cardiovascular side effects, has generated a need for a revision of labeling to inform physicians and patients of these findings.

In revising oral contrceptive labeling, the Commissioner has carefully considered the numerous comments submitted on the December 7, 1976 labeling notice. Additionally, he has considered and incorporated into this revision several recommendations made by FDA's Obstetrics and Gynecology Advisory Committee, which reviewed a preliminary draft revision of both physician and patient labeling at its regularly scheduled meeting on November 17 and 18, 1977. Other changes in the patient labeling are based on a need to conform the guideline labeling with the final rule (published elsewhere in this issue of the FEDERAL REGISTER) revising the requirements for patient labeling of oral contraceptive drug products.

PHYSICIAN LABELING

The following major changes have been made in the December 7, 1976 version of physician labeling:

1. A boxed warning has been added stating that cigarette smoking increases the oral contraceptive user's risk of serious cardiovascular side effects. The warning also states that women who use oral contraceptives should be advised not to smoke. This warning was recommended by the Advisory Committee and is based mainly on a comment submitted by The Population Council and on two recently reported studies (Jain, A. K., "Mortality Risk Associated with the Use of Oral Contraceptives," Studies in Family Planning, 8:50-54, 1977; and Beral, V., "Mortality Among Oral Contraceptive Users," Lancet, 2:727-731, 1977). These studies are referenced in the text of the physician labeling (copies of all references cited in the physician labeling have been placed on file in the office of the Hearing Clerk, FDA).

2. Tabular information in the December 7, 1976 physician labeling regarding the risks of cardiovascular side effects has been revised to reflect the variable risks faced by oral contraceptive users based on smoking habits and age.

3. Figure 1, giving the estimated annual number of deaths associated with control of fertility, by regimen of control and age, has been revised and now distinguishes between the risk of death faced by oral contraceptive users who smoke and the risk faced by users who do not smoke.

4. In the section describing the risks of hepatic tumor, an additional reference has been cited (Ref. 46) based on a study which shows an association between oral contraceptive use and benign hepatic tumor. This study also shows that oral contraceptives with high hormonal potency are associated with a higher risk than low potency formulations, and that the risk is directly related to duration of use. This information has been added to the physician labeling.

5. In the section describing the risks of oral contraceptive use in or immediately preceding pregnancy (Warning 5), the risk of developing vaginal cancer in female offspring exposed prenatally to stilbestrol has been revised from 4 in 1,000 exposures to 1 in 1,000 exposures or less. The Advisory Committee considered the new risk estimate to reflect more accurately the referenced studies.

6. Also in Warning 5, a statement has been added regarding the possible effect of prenatal exposurers to stilbestrol on male offspring. Three studies (Refs. 48, 49, and 50) are cited in support of such an association.

PATIENT LABELING

Patient labeling for oral contraceptives has also been revised and conforms to the physician labeling set forth in this notice. The following are the most significant revisions in the patient labeling text:

1. In both the brief summary and the detailed labeling, a box warning has been added. It states that cigarette smoking increases the risks of serious cardiovascular side effects in oral contraceptive users. It also advises women who use oral contraceptives not to smoke.

2. In the discussion in the brief summary of serious side effects, a statement has been added which refers the patient to the detailed patient labeling for information about symptoms associated with these serious side effects.

3. In the section "Who should not use oral contraceptives," a statement has been added encouraging women who have scanty or irregular periods to use another method of contraception. The statement is based on the discussion of "Bleeding Irregularities" contained in the physician labeling.

4. The discussion of "The Dangers of Oral Contraceptives" has been substantially revised to reflect the role that cigarette smoking plays in determining the risks of serious cardiovascular side effects, especially in terms of myocardial infarction.

5. In the discussion of the "Dangers to a developing child * * *," several of the statements have been revised to conform with the information in the physician labeling; in particular, the patient labeling revises the previous estimate of risk of developing vaginal cancer in female offspring exposed to stilbestrol prenatally, and also adds a statement regarding the possible effect of prenatal exposure to stilbestrol on male offspring.

6. In the discussion of "Other side effects of oral contraceptives," a statement has been added that irregular bleeding is frequently seen when using the mini-pill or combination oral contraceptives containing less than 50 micrograms of estrogen.

7. In the section "Comparison of the risks of oral contraceptives and other contraceptive methods," the bar graph has been revised to reflect an estimate

of the annual number of deaths among oral contraceptive users in terms of whether or not the user smokes.

The Food and Drug Administration will regard as misbranded and subject to regulatory action any oral contraceptive drug product that is shipped in interstate commerce by manufacturers, repackers, relabelers, or own-label distributors, on or after April 3, 1978, without labeling which is substantially the same in content as the physician labeling set forth in this notice. Under the provisions of § 314.8(d) (21 CFR 314.8(d)), such labeling may be put in use before approval of a supplement to a new drug application.

Holders of approved new drug applications for oral contraceptive drug products shall submit supplements on or before April 3, 1978, to provide for the revised physician labeling.

The Commissioner advises that the patient labeling text set forth in this notice complies with the patient labeling final rule (§ 310.501(a)) and can be relied upon by any person to meet the rule's requirements. For those manufacturers and suppliers who elected to use the December 7, 1976 guideline patient labeling (as revised on May 27, 1977), use of the December 7, 1976 text will continue to meet the requirements of the final rule (§ 310.501(a)) until May 31, 1978. For all manufacturers and suppliers who have deferred distributing revised patient labeling based on the December 7, 1976 guideline, use of the earlier text cannot be relied upon as meeting the requirements of the rule.

The physician labeling for oral contraceptive drug products is set forth as follows:

ORAL CONTRACEPTIVE LABELING

DESCRIPTION

(TO BE SUPPLIED BY MANUFACTURER)

(Description should include the following information.)

1. The proprietary name and the established name if any, of the drug product;
2. The same qualitative and/or quantitative ingredient information as required for labels;
3. The pharmacological or therapeutic class of the drug product;
4. The chemical name and structural formula.

CLINICAL PHARMACOLOGY

FOR COMBINATION ORAL CONTRACEPTIVES ONLY

Combination oral contraceptives act primarily through the mechanism of gonadotropin suppression due to the estrogenic and progestational activity of the ingredients. Although the primary mechanism of action is inhibition of ovulation, alterations in the genital tract including changes in the cervical mucus (which increase the difficulty of sperm penetration) and the endometrium (which reduce the likelihood of implantation) may also contribute to contraceptive effectivenes.

FOR PROGESTOGEN ORAL CONTRACEPTIVES ONLY

The primary mechanism through which (insert name of drug) prevents conception is not known, but progestogen only contraceptives are known to alter the cervical mucus, exert a progestational effect on the endometrium, interfering with implantation, and, in some patients, suppress ovulation. (Manufacturer to include information on absorption, distribution, elimination, and pharmacokinetics if pertinent; also on drug interactions pertinent to human use.)

INDICATIONS AND USAGE

(Insert name of drug) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception.

(Manufacturers who have other approved indications for oral contraceptives (Enovid 5 mg, Ortho-Novum 2 mg, Ortho-Novum 10 mg) should mention those indications here.)

Oral contraceptives are highly effective. The pregnancy rate in women using conventional combination oral contraceptives (containing 35 mcg or more of ethinyl estradiol or 50 mcg or more of mestranol) is generally reported as less than one pregnancy per 100 woman-years of use. Slighty higher rates (somewhat more than 1 pregnancy per 100 woman-years of use) are reported for some combination products containing 35 mcg or less of ethinyl estradiol, and rates on the order of 3 pregnancies per 100 women-years are reported for the progestogen only oral contraceptives.

These rates are derived from separate studies conducted by different investigators in several population groups and cannot be compared precisely. Furthermore, pregnancy rates tend to be lower as clinical studies are continued, possibly due to selective retention in the longer studies of those patients who accept the treatment regimen and do not discontinue as a result of adverse reactions, pregnancy, or other reasons.

In clinical trials with (insert name of drug) (insert number of) patients complete —— cycles and a total of —— pregnancies were reported. This represents a pregnancy rate of —— per 100 woman-years. (Manufacturer to add other information related to the pregnancy rate with his particular product, if needed to provide adequate prescribing information to the physician.)

Table 1 gives ranges of pregnancy rates reported in the literature (Ref. 1) for other means of contraception. The efficacy of these means of contraception (except the IUD) depends upon the degree of adherence to the method.

TABLE 1

PREGNANCIES PER 100 WOMEN-YEARS

IUD, less than 1-6;
Diaphragm with spermicidal products (creams or jellies), 2-20;
Condom, 3-36;
Aerosol foams, 2-29;
Jellies and creams, 4-36;
Periodic abstinence (ryhthm) all types, less than 1-47;
1. Calendar method, 14-47;
2. Temperature method, 1-20;
3. Temperature method—intercourse only in post-ovulatory phase, less than 1-7;
4. Mucus method, 1-25;
No contraception, 60-80.

DOSE-RELATED RISK OF THROMBOEMBOLISM FROM ORAL CONTRACEPTIVES

Two studies have shown a positive association between the dose of estrogens in oral contraceptives and the risk of thromboembolism (refs. 2 and 3). For this reason, it is prudent and in keeping with good principles of therapeutics to minimize exposure to estrogen. The oral contraceptive product prescribed for any given patient should be that product which contains the least amount of estrogen that is compatible with an acceptable pregnancy rate and patient acceptance. It is recommended that new acceptors of oral contraceptives be started on preparations containing 0.5 mg or less of estrogen.

CONTRAINDICATIONS

Oral contraceptives should not be used in women with any of the following conditions:

1. Thrombophlebitis or thromboembolic disorders.
2. A past history of deep vein thrombophlebitis or thromboembolic disorders.
3. Cerebral vascular or coronary artery disease.
4. Known or suspected carcinoma of the breast.
5. Known or suspected estrogen dependent neoplasia.
6. Undiagnosed abnormal genital bleeding.
7. Known or suspected pregnancy (see warning No. 5).

WARNINGS

Cigarette smoking increases the risk of serious cardiovascular side effects from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives should be strongly advised not to smoke.

The use of oral contraceptives is associated with increased risk of several serious conditions including thromboembolism, stroke, myocardial infarction, hepatic adenoma, gall bladder disease, hypertension. Practitioners prescribing oral contraceptives should be familiar with the following information relating to these risks.

1. *Thromboembolic Disorders and Other Vascular Problems.* An increased risk of thromboembolic and thrombotic disease associated with the use of oral contraceptives is well established. Three principal studies in Great Britain (Refs. 4 through 6) and three in the United States (Refs. 7 through 10) have demonstrated an increased risk of fatal and nonfatal venous thromboembolism and stroke, both hemorrhagic and thrombotic. These studies estimate that users, or oral contraceptives are 4 to 11 times more likely than nonusers to develop these diseases without evident cause (Table 2).

Cerebrovascular Disorders

In a collaborative American study (Refs. 9 and 10) of cerebrovascular disorders in women with and without predisposing causes, it was estimated that the risk of hemorrhagic stroke was 2.0 times greater in users than nonusers and the risk of thrombotic stroke was 4 to 9.5 times greater in users than in nonusers (Table 2).

Table 2

SUMMARY OF RELATIVE RISK OF THROMBOEMBOLIC DISORDERS AND OTHER VASCULAR PROBLEMS IN ORAL CONTRACEPTIVE USERS COMPARED TO NONUSERS

	Relative risk, times greater
Idiopathic thromboembolic disease	4–11
Post surgery thromboembolic complications	4–6
Thrombotic stroke	4–9.5
Hemorrhagic stroke	2
Myocardial infarction	2–12

Myocardial Infarction

An increased risk of myocardial infarction associated with the use of oral contraceptives has been reported (Refs. 11, 12, and 13), confirming a previously suspected association. These studies, conducted in the United Kingdom, found, as expected, that the greater the number of underlying risk factors for coronary artery disease (cigarette smoking, hypertension, hypercholesterolemia, obesity, diabetes, history of preeclamptic toxemia) the higher the risk of developing myocardial infarction, regardless of whether the patient was an oral contraceptive user or not. Oral contraceptives, however, were found to be a clear additional risk factor.

In terms of relative risk, it has been estimated (Ref. 52) that oral contraceptive users who do not smoke (smoking is considered a major predisposing condition to myocardial infarction) are about twice as likely to have a fatal myocardial infarction as nonusers who do not smoke. Oral contraceptive users who are also smokers have about a 5-fold increased risk of fatal infarction compared to users who do not smoke, but about a 10- to 12-fold increased risk compared to nonusers who do not smoke. Furthermore, the amount of smoking is also an important factor. In determining the importance of these relative risks, however, the baseline rates for various age groups, as shown in Table 3, must be given serious consideration. The importance of other predisposing conditions mentioned above in determining relative and absolute risks has not as yet been quantified; it is quite likely that the same synergistic action exists, but perhaps to a lesser extent.

Table 3

Estimated annual mortality rate per 100,000 women from myocardial infarction by use of oral contraceptives, smoking habits, and age (in years)

	Myocardial infarction			
	Women aged 30–39		Women aged 40–44	
Smoking habits	Users	Nonusers	Users	Nonusers
All smokers	10.2	2.6	62.0	15.9
Heavy[1]	13.0	5.1	78.7	31.3
light	4.7	.9	28.6	5.7
Nonsmokers	1.8	1.2	10.7	7.4
Smokers and nonsmokers	5.4	1.9	32.8	11.7

[1]Heavy smoker: 15 or more cigarettes per day. From Jain, A. K., Studies in Family Planning, 8:50, 1977.

Risk of Dose

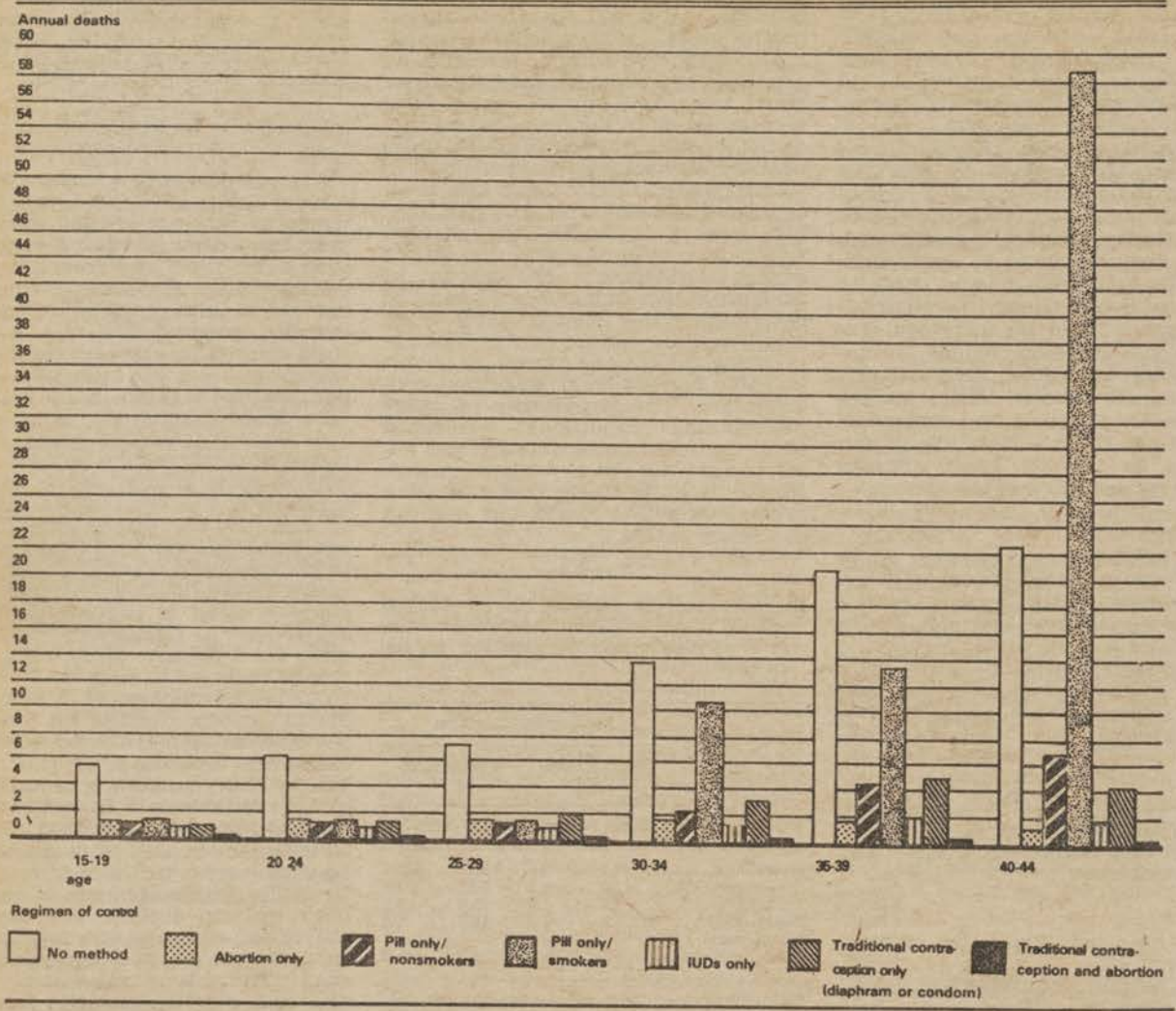
In an analysis of data derived from several national adverse reaction reporting systems (Ref. 2), British investigators concluded that the risk of thromboembolism including coronary thrombosis is directly related to the dose of estrogen used in oral contraceptives preparations containing 100 mcg or more of estrogen were associated with a higher risk of thromboembolism than those containing 50–80 mcg of estrogen. Their analysis did suggest, however, that the quantity of estrogen may not be the sole factor involved. This finding has been confirmed in the United States (Ref. 3). Careful epidemiological studies to determine the degree of thromboembolic risk associated with progestogen-only oral contraceptives have not been performed. Cases of thromboembolic disease have been reported in women using these products, and they should not be presumed to be free of excess risk.

Estimate of Excess Mortality From Circulatory Diseases

A large prospective study (Ref. 53) carried out in the U.K. estimated the mortality rate per 100,000 women per year from diseases of the circulatory system for users and nonusers of oral contraceptives according to age, smoking habits, and duration of use. The overall excess death rate annually from circulatory diseases for oral contraceptive users was estimated to be 20 per 100,000 (ages 15–34—5/100,000; ages 35–44—33/100,000; ages 45–49—140/100,000), the risk being concentrated in older women, in those with a long durtion of use, and in cigarette smokers. It was not possible, however, to examine the interrelationships of age, smoking, and duration of use, nor to compare the effects of continuous versus intermittent use. Although the study showed a 10-fold increase in death due to circulatory diseases in users for 5 or more years, all of these deaths occurred in women 35 or older. Until larger numbers of women under 35 with continuous use for 5 or more years are available, it is not possible to assess the magnitude of the relative risk for this younger age group.

The available data from a variety of sources have been analyzed (Ref. 14) to estimate the risk of death associated with various methods of contraception. The estimates of risk of death for each method include the combined risk of the contraceptive method (e.g., thromboembolic and thrombotic disease in the case of oral contraceptives) plus the risk attributable to pregnancy or abortion in the event of method failure. This latter risk varies with the effectiveness of the contraceptive method. The findings of this analysis are shown in Figure 1 below (Ref. 14). The study concluded that the mortality associated with all methods of birth control is low and below that associated with childbirth, with the exception of oral contraceptives in women over 40 who smoke. (The rates given for pill only/smokers for each age group are for smokers as a class. For "heavy" smokers (more than 15 cigarettes a day), the rates given would be about double; for "light" smokers (less than 15 cigarettes a day), about 50 percent.) The lowest mortality is associated with the condom or diaphragm backed up by early abortion.

Figure 1. Estimated annual number of deaths associated with control of fertility and no control per 100,000 nonsterile women, by regimen of control and age of woman



The risk of thromboembolic and thrombotic disease associated with oral contraceptives increases with age after approximately age 30 and, for myocardial infarction, is further increased by hypertension, hyper- cholesterolemia, obesity, diabetes, or history of preeclamptic toxemia and especially by cigarette smoking.

Based on the data currently available, the following chart gives a gross estimate of the risk of death from circulatory disorders associated with the use of oral contraceptives:

SMOKING HABITS AND OTHER PREDISPOSING CONDITIONS—RISK ASSOCIATED WITH USE OF ORAL CONTRACEPTIVES

Age	Below 30	30-39	40+
Heavy smokers	C	B	A
Light smokers	D	C	B
Nonsmokers (no predisposing conditions).	D	C, D	C
Nonsmokers (other predisposing conditions).	C	C, B	B, A

A—Use associated with very high risk.
B—Use associated with high risk.
C—Use associated with moderate risk.
D—Use associated with low risk.

The physician and the patient should be alert to the earliest manifestations of thromboembolic and thrombotic disorders (e.g., thrombophlebitis, pulmonary embolism, cerebrovascular insufficiency, coronary occlusion, retinal thrombosis, and mesenteric thrombosis). Should any of these occur or be suspected, the drug should be discontinued immediately.

A four- to six-fold increased risk of post surgery thromboembolic complications has been reported in oral contraceptive users (refs. 15 and 16). If feasible, oral contraceptives should be discontinued at least 4 weeks before surgery of a type associated with an increased risk of thromboembolism or prolonged immobilization.

2. *Ocular Lesions.* There have been reports of neuro-ocular lesions such as optic neuritis or retinal thrombosis associated with the use of oral contraceptives. Discontinue oral contraceptive medication if there is unexplained, sudden or gradual, partial or complete loss of vision; onset of proptosis or diplopia; papilledema; or retinal vascular lesions and institute appropriate diagnostic and therapeutic measures.

3. *Carcinoma.* Long-term continuous administration of either natural or synthetic estrogen in certain animal species increases the frequency of carcinoma of the breast, cervix, vagina, and liver. Certain synthetic progestogens, none currently contained in oral contraceptives, have been noted to increase the incidence of mammary nodules, benign and malignant, in dogs.

In humans, three case control studies have reported an increased risk of endometrial carcinoma associated with the prolonged use of exogenous estrogen in post menopausal women (Refs. 17, 18, and 19). One publication (Ref.

20) reported on the first 21 cases submitted by physicians to a registry of cases of adenocarcinoma of the endometrium in women under 40 on oral contraceptives. Of the cases found in women without presdisposing risk factors for adenocarcinoma of the endometrium (e.g., irregular bleeding at the time oral contraceptives were first given, polycystic ovaries), nearly all occurred in women who had used a sequential oral contraceptive. These products are no longer marketed. No evidence has been reported suggesting an increased risk of endometrial cancer in users of conventional combination or progestogen-only oral contraceptives.

Several studies (Refs. 8 and 21 through 24) have found no increase in breast cancer in women taking oral contraceptives or estrogens. One study (Ref. 25), however, while also noting no overall increased risk of breast cancer in women treated with oral contraceptives, found an excess risk in the subgroups of oral contraceptive users with documented benign breast disease. A reduced occurrence of benign breast tumors in users of oral contraceptives has been well-documented (Refs. 8, 21, 25, 26, and 27).

In summary, there is at present no confirmed evidence from human studies of an increased risk of cancer associated with oral contraceptives. Close clinical surveillance of all women taking oral contraceptives is, nevertheless, essential. In all cases of undiagnosed persistent or recurrent abnormal vaginal bleeding, appropriate diagnostic measures should be taken to rule out malignancy. Women with a strong family history of breast cancer or who have breast nodules, fibrocystic disease or abnormal mammograms should be monitored with particular care if they elect to use oral contraceptives instead of other methods of contraception.

4. *Hepatic Tumors.* Benign hepatic adenomas have been found to be asssociated with the use of oral contraceptives (Refs. 28, 29, 30, and 46). One study (Ref. 46) showed that oral contraceptive formulations with high hormonal potency were associated with a higher risk than lower potency formulations. Although benign, hepatic adenomas may rupture and may cause death through intra-abdominal hemorrhage. This has been reported in short-term as well as long-term users of oral contraceptives. Two studies relate risk with duration of use of the contraceptive, the risk being much greater after 4 or more years of oral contraceptive use (Refs. 30 and 46). While hepatic adenoma is a rare lesion, it should be considered in women presenting abdominal pain and tenderness, abdominal mass or shock.

A few cases of hepatocellular carcinoma have been reported in women taking oral contraceptives. The relationship of these drugs to this type of malignancy is not known at this time.

5. *Use in or Immediately Preceding Pregancy, Birth Defects in Offspring, and Malignancy in Female Offspring.*

The use of female sex hormones—both estrogenic and progestational agents—during early pregnancy may seriouly damage the offspring. It has been shown that females exposed in utero to diethylstilbestrol, a nonsteroidal estrogen, have an increased risk of developing in later life a form of vaginal or cervical cancer that is ordinarily extremely rare (Refs. 31 and 32). This risk has been estimated to be of the order of 1 in 1,000 exposures or less (Refs. 33 and 47). Although there is no evidence at the present time that oral contraceptives further enhance the risk of developing this type of malignancy, such patients should be monitored with particular care if they elect to use oral contraceptives instead of other methods of contraception. Furthermore, a high percentage of such exposed women (from 30 to 90%) have been found to have epithelial changes of the vagina and cervix (Refs. 34 through 38). Although these changes are histologically benign, it is not known whether this condition is a precursor of vaginal malignancy. Male children so exposed may develop abnormalities of the urogenital tract (Refs. 48, 49, and 50). Although similar data are not available with the use of other estrogens, it cannot be presumed that they would not induce similar changes.

An increased risk of congenital anomalies, including heart defects and limb defects, has been reported with the use of sex hormones, including oral contraceptives, in pregnancy (Refs. 39 through 42, 51). One case control study (Ref. 42) has estimated a 4.7-fold increase in risk of limb-reduction defects in infants exposed in utero to sex hormones (oral contraceptives, hormonal withdrawal tests for pregnancy or attempted treatment for threatened abortion). Some of these exposures were very short and involved only a few days of treatment. The data suggest that the risk of limb-reduction defects in exposed fetuses is somewhat less than one in 1,000 live births.

In the past, female sex hormones have been used during pregnancy in an attempt to treat threatened or habitual abortion. There is considerable evidence that estrogens are ineffective for these indications, and there is no evidence from well controlled studies that progestogens are effective for these uses.

There is some evidence that triploidy and possibly other types of polyploidy are increased among abortuses from women who become pregnant soon after ceasing oral contraceptives (Ref. 43). Embryos with these anomalies are virtually always aborted spontaneously. Whether there is an overall increase in spontaneous abortion of pregnancies conceived soon after stopping oral contraceptives is unknown.

It is recommended that for any patient who has missed two consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen. If the patient has not adhered to the prescribed schedule, the possibility of pregnancy should be considered at the time of the first missed period (or after 45 days from the last menstrual period if the progestogen only oral contraceptives are used), and further use of oral contraceptives should be withheld until pregnancy has been ruled out. If pregnancy is confirmed, the patient should be apprised of the potential risks to the fetus and the advisability of continuation of the pregnancy should be discussed in the light of these risks.

(Manufacturer to supply appropriate information for use in endometriosis.)

It is also recommended that women who discontinue oral contraceptives with the intent of becoming pregnant use an alternate form of contraception for a period of time before attempting to conceive. Many clinicians recommend 3 months although no precise information is available on which to base this recommendation.

The administration of progestogen-only or progestogen-estrogen combinations to induce withdrawal bleeding should not be used as a test of pregnancy.

6. *Gall Bladder Disease.*

Studies (Refs. 8, 23, and 26) report an increased risk of surgically confirmed gall bladder disease in users of oral contraceptives and estrogens. In one study, an increased risk appeared after 2 years of use and doubled after 4 or 5 years of use. In one of the other studies, an increased risk was apparent between 6 and 12 months of use.

7. *Carbohydrate and Lipid Metabolic Effects.*

A decrease in glucose tolerance has been observed in a significant percentage of patients on oral contraceptives. For this reason, prediabetic and diabetic patients should be carefully observed while receiving oral contraceptives.

An increase in triglycerides and total phospholipids has been observed in patients receiving oral contraceptives (Ref. 44). The clinical significance of this finding remains to be defined.

8. *Elevated Blood Pressure.*

An increase in blood pressure has been reported in patients receiving oral contraceptives (Ref. 26). In some women, hypertension may occur within a few months of beginning oral contraceptive use. In the first year of use, the prevalence of women with hy-

pertension is low in users and may be no higher than that of a comparable group of nonusers. The prevalence in users increases, however, with longer exposure, and in the fifth year of use is two and a half to three times the reported prevalence in the first year. Age is also strongly correlated with the development of hypertension in oral contraceptive users. Women who previously have had hypertension during pregnancy may be more likely to develop elevation of blood presure when given oral contraceptives. Hypertension that develops as a result of taking oral contraceptives usually returns to normal after discontinuing the drug.

9. *Headache.*

The onset or exacerbation of migraine or development of headache of a new pattern which is recurrent, persistent, or severe, requires discontinuation of oral contraceptives and evaluation of the cause.

10. *Bleeding Irregularities.*

Breakthrough bleeding, spotting, and amenorrhea are frequent reasons for patients discontinuing oral contraceptives. In breakthrough bleeding, as in all cases of irregular bleeding from the vagina, nonfunctional causes should be borne in mind. In undiagnosed persistent or recurrent abnormal bleeding from the vagina, adequate diagnostic measures are indicated to rule out pregnancy or malignancy. If pathology has been excluded, time or a change to another formulation may solve the problem. Changing to an oral contraceptive with a higher estrogen content, while potentially useful in minimizing menstrual irregularity, should be done only if necessary since this may increase the risk of thromboembolic disease.

Following paragraph to be inserted for progestogen-only oral contraceptives:

An alteration in menstrual patterns is likely to occur in women using progestogen-only oral contraceptives. The amount and duration of flow, cycle length, breakthrough bleeding, spotting and amenorrhea will probably be quite variable. Bleeding irregularities occur more frequently with the use of progestogen-only oral contraceptives than with the combinations and the dropout rate due to such conditions is higher.

Women with a past history of oligomenorrhea or secondary amenorrhea or young women without regular cycles may have a tendency to remain anovulatory or to become amenorrheic after discontinuation of oral contraceptives. Women with these preexisting problems should be advised of this possibility and encouraged to use other contraceptive methods. Post-use anovulation, possibly prolonged, may also occur in women without previous irregularities.

11. *Ectopic Pregnancy.*

Ectopic as well as intrauterine pregnancy may occur in contraceptive failures. However, in progestogen-only oral contraceptive failures, the ratio of ectopic to intrauterine pregnancies is higher than in women who are not receiving oral contraceptives, since the drugs are more effective in preventing intrauterine than ectopic pregnancies.

12. *Breast Feeding.*

Oral contraceptives given in the postpartum period may interfere with lactation. There may be a decrease in the quantity and quality of the breast milk. Furthermore, a small fraction of the hormonal agents in oral contraceptives has been identified in the milk of mothers receiving these drugs (Ref. 45). The effects, if any, on the breast fed child have not been determined. If feasible, the use of oral contraceptives should be deferred until the infant has been weaned.

PRECAUTIONS

GENERAL

1. A complete medical and family history should be taken prior to the initiation of oral contraceptives. The pretreatment and periodic physical examinations should include special reference to blood pressure, breasts, abdomen and pelvic organs, including Papanicolaou smear and relevant laboratory tests. As a general rule, oral contraceptives should not be prescribed for longer than 1 year without another physical examination being performed.

2. Under the influence of estrogen-progestogen preparations, preexisting uterine leiomyomata may increase in size.

3. Patients with a history of psychic depression should be carefully observed and the drug discontinued if depression recurs to a serious degree. Patients becoming significantly depressed while taking oral contraceptives should stop the medication and use an alternate method of contraception in an attempt to determine whether the symptom is drug related.

4. Oral contraceptives may cause some degree of fluid retention. They should be prescribed with caution, and only with careful monitoring, in patients with conditions which might be aggravated by fluid retention, such as convulsive disorders, migraine syndrome, asthma, or cardiac or renal insufficiency.

5. Patients with a past history of jaundice during pregnancy have an increased risk of recurrence of jaundice while receiving oral contraceptive therapy. If jaundice develops in any patient receiving such drugs, the medication should be discontinued.

6. Steroid hormones may be poorly metabolized in patients with impaired liver function and should be administered with caution in such patients.

7. Oral contraceptive users may have disturbances in normal tryptophan metabolism which may result in a relative pyridoxine deficiency. The clinical significance of this is yet to be determined.

8. Serum folate levels may be depressed by oral contraceptive therapy. Since the pregnant woman is predisposed to the development of folate deficiency increase with increasing gestation, it is possible that if a woman becomes pregnant shortly after stopping oral contraceptives, she may have a greater chance of developing folate deficiency and complications attributed to this deficiency.

9. The pathologist should be advised of oral contraceptive therapy when relevant specimens are submitted.

10. Certain endocrine and liver function tests and blood components may be affected by estrogen-containing oral contraceptives:

a. Increased sulfobromophthaleim retention.

b. Increased prothrombin and factors VII, VIII, IX, and I; decreased antithrombin 3; increased norepinephrine-induced platelet aggregability.

c. Increased thyroid binding globulin (TBG) leading to increased circulating total thyroid hormone, as measured by protein-bound iodine (PBI), T4 by column, or T4 by radioimmunoassay. Free T3 resin uptake is decreased, reflecting the elevated TBG, free T4 concentration is unaltered.

d. Decreased pregnanediol excretion.

e. Reduced response to metyrapone test.

INFORMATION FOR THE PATIENT

See Patient Labeling Printed below.

DRUG INTERACTIONS

Reduced efficacy and increased incidence of breakthrough bleeding have been associated with concomitant use of rifampin. A similar association has been suggested with barbiturates, phenylbutazone, phenytoin sodium, and ampicillin.

CARCINOGENESIS

See Warnings section for information on the carcinogenic potential or oral contraceptives.

PREGNANCY

Pregnancy category X. See Contraindications and Warnings.

NURSING MOTHERS

See Warnings.

ADVERSE REACTIONS

An increased risk of the following serious adverse reactions has been associated with the use of oral contraceptives (see Warnings):

Thrombophlebitis.

Pulmonary embolism.

Coronary thrombosis.
Cerebral thrombosis.
Cerebral hemorrhage.
Hypertension.
Gall bladder disease.
Benign hepatomas.
Congenital anomalies.

There is evidence of an association between the following conditions and the use of oral contraceptives, although additional confirmatory studies are needed:

Mesenteric thrombosis.
Neuro-ocular lesions, e.g., retinal thrombosis and optic neuritis.

The following adverse reactions have been reported in patients receiving oral contraceptives and are believed to be drug related:

Nausea, usually the most common adverse reaction.
Vomiting, occurs in approximately 10% or less of patients during the first cycle. Other reactions, as a general rule, are seen much less frequently or only occasionally.
Gastrointestinal symptoms (such as abdominal cramps and bloating).
Breakthrough bleeding.
Spotting.
Change in menstrual flow.
Dysmenorrhea.
Amenorrhea during and after treatment.
Temporary infertility after discontinuance of treatment.
Edema.
Chloasma or melasma which may persist.
Breast changes: tenderness, enlargement, and secretion.
Change in weight (increase or decrease).
Change in cervical erosion and cervical secretion.
Possible diminution in lactation when given immediately postpartum.
Cholestatic jaundice.
Migraine.
Increase in size of uterine leiomyomata.
Rash (allergic).
Mental depression.
Reduced tolerance to carbohydrates.
Vaginal candidiasis.
Change in corneal curvature (steepening).
Intolerance to contact lenses.

The following adverse reactions have been reported in users of oral contraceptives, and the association has been neither confirmed nor refuted:

Premenstrual-like syndrome.
Cataracts.
Changes in libido.
Chorea.
Changes in appetite.
Cystitis-like syndrome.
Headache.
Nervousness.
Dizziness.
Hirsutism.
Loss of scalp hair.
Erythema multiforme.
Erytherma nodosum.
Hemorrhagic eruption.
Vaginitis.
Porphyria.

Acute Overdose

Serious ill effects have not been reported following acute ingestion of large doses of oral contraceptives by young children. Overdosage may cause nausea, and withdrawal bleeding may occur in females.

Dosage and Administration

To achieve maximum contraceptive effectiveness, (insert name of drug) must be taken exactly as directed and at intervals not exceeding 24 hours.

(Manufacturer to supply appropriate information regarding endometriosis and hypermenorrhea where applicable.)

(Manufacturer to supply information on routine administration and specific instructions on handling problems such as breakthrough bleeding, amenorrhea, etc.)

Use of oral contraceptives in the event of a missed menstrual period:

1. If the patient has not adhered to the prescribed dosage regimen, the possibility of pregnancy should be considered after the first missed period (or after 45 days from the last menstrual period if the progestogen only oral contraceptives are used) and oral contraceptives should be withheld until pregnancy has been ruled out.

2. If the patient has adhered to the prescribed regimen and misses two consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen.

How Supplied

(Manufacturers to supply information on available dosage forms, potency, color, and packaging.)

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The patient labeling for oral contraceptives drug products is set forth below:

Brief Summary Patient Package Insert

Cigarette smoking increases the risk of serious adverse effects on the heart and blood vessels from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives should not smoke.

Oral contraceptives taken as directed are about 99% effective in preventing pregnancy. (The mini-pill, however, is somewhat less effective.) Forgetting to take your pills increases the chance of pregnancy.

Women who have or have had clotting disorders, cancer of the breast or sex organs, unexplained vaginal bleeding, a stroke, heart attack, angina pectoris, or who suspect they may be pregnant should not use oral contraceptives.

Most side effects of the pill are not serious. The most common side effects are nausea, vomiting, bleeding between menstrual periods, weight gain, and breast tenderness. However, proper use of oral contraceptives requires that they be taken under your doctor's continuous supervision, because they can be associated with serious side effects which may be fatal. Fortunately, these occur very infrequently. The serious side effects are:

1. Blood clots in the legs, lungs, brain, heart or other organs and hemorrhage into the brain due to bursting of a blood vessel.
2. Liver tumors, which may rupture and cause severe bleeding.
3. Birth defects if the pill is taken while you are pregnant.
4. High blood pressure.
5. Gallbladder disease.

The symptoms associated with these serious side effects are discussed in the detailed leaflet given you with your supply of pills. Notify your doctor if you notice any unusual physical disturbance while taking the pill.

The estrogen in oral contraceptives has been found to cause breast cancer and other cancers in certain animals. These findings suggest that oral contraceptives may also cause cancer in humans. However, studies to date in women taking currently marketed oral contraceptives have not confirmed that oral contraceptives cause cancer in humans.

The detailed leaflet describes more completely the benefits and risks of oral contraceptives. It also provides information on other forms of contraception. Read it carefully. If you have any questions, consult your doctor.

Caution. Oral contraceptives are of no value in the prevention or treatment of venereal disease.

Detailed Patient Labeling

WHAT YOU SHOULD KNOW ABOUT ORAL CONTRACEPTIVES

Oral contraceptives ("the pill") are the most effective way (except for sterilization) to prevent pregnancy. They are also convenient and, for most women, free of serious or unpleasant side effects. Oral contraceptives must always be taken under the continuous supervision of a physican.

(If and oral contraceptive is approved for indications other than contraception (Enovid 5 mg, Ortho-Novum 2 mg, Ortho-Novum 10 mg), the manufacturer may mention those indications in the last paragraph in this section and state that the information in this leaflet under the headings "Who Should Not Use Oral Contraceptives," "The Dangers of Oral Contraceptives," and "How to Use Oral Contraceptives Safely" is also applicable when these drugs are used for other indications.)

It is important that any woman who considers using an oral contraceptive understand the risks involved. Although the oral contraceptives have important advantages over other methods of contraception, they have certain risks that no other method

has. Only you can decide whether the advantages are worth these risks. This leaflet will tell you about the most important risks. It will explain how you can help your doctor prescribe the pill as safely as possible by telling him about yourself and being alert for the earliest signs of trouble. And it will tell you how to use the pill properly, so that it will be as effective as possible. There is more detailed information available in the leaflet prepared for doctors. Your pharmacist can show you a copy; you may need your doctor's help in understanding parts of it.

Who Should Not Use Oral Contraceptives

A. If you have any of the following conditions you should not use the pill:

1. Clots in the legs or lungs.
2. Angina pectoris.
3. Known or suspected cancer of the breast or sex organs.
4. Unusual vaginal bleeding that has not yet been diagnosed.
5. Known or suspected pregnancy.

B. If you have had any of the following conditions you should not use the pill:

1. Heart attack or stroke.
2. Clots in the legs or lungs.

C. Cigarette smoking increases the risk of serious adverse effects on the heart and blood vessels from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives should not smoke.

D. If you have scanty or irregular periods or are a young woman without a regular cycle, you should use another method of contraception because, if you use the pill, you may have difficulty becoming pregnant or may fail to have menstrual periods after discontinuing the pill.

Deciding To Use Oral Contraceptives

If you do not have any of the conditions listed above and are thinking about using oral contraceptives, to help you decide, you need information about the advantages and risks of oral contraceptives and of other contraceptive methods as well. This leaflet describes the advantages and risks of oral contraceptives. Except for sterilization, the IUD and abortion, which have their own exclusive risks, the only risks of other methods of contraception are those due to pregnancy should the method fail. Your doctor can answer questions you may have with respect to other methods of contraception. He can also answer any questions you may have after reading this leaflet on oral contraceptives.

1. What Oral Contraceptives Are and How They Work. Oral Contraceptives are of two types. The most common, often simply called "the pill" is a combination of an estrogen and a progestogen, the two kinds of female hormones. The amount of estrogen and progestogen can vary, but the amount of estrogen is most important because both the effectiveness and some of the dangers of oral contraceptives are related to the amount of estrogen. This kind of oral contraceptive works prinicpally by preventing release of an egg from the ovary. When the amount of estrogen is 50 micrograms or more, and the pill is taken as directed, oral contraceptives are more than 99% effective (i.e., there would be less than one pregnancy if 100 women used the pill for 1 year). Pills that contain 20 to 35 micrograms of estrogen vary slightly in effectiveness, ranging from 98% to more than 99% effective. (Manufacturer may insert pregnancy rate for the manufacturer's product found in clinical trials, if product is a combination).

The second type of oral contraceptive, often called the "mini-pill", contains only a progestogen. It works in part by preventing release of an egg from the ovary but also by keeping sperm from reaching the egg and by making the uterus (womb) less receptive to any fertilized egg that reaches it. The mini-pill is less effective than the combination oral contraceptive, about 97% effective. (Manufacturer may insert pregnancy rate for the manufacturer's product found in clinical trials if product is a progestogen-only oral contraceptive.) In addition, the progestogen-only pill has a tendency to cause irregular bleeding which may be quite inconvenient, or cessation of bleeding entirely. The progestogen-only pill is used despite its lower effectivenes in the hope that it will prove not to have some of the serious side effects of the estrogen-containing pill (see below) but it is not yet certain that the mini-pill does in fact have fewer serious side effects. The discussion below, while based mainly on information about the combination pills, should be considered to apply as well to the mini-pill.

2. Other Nonsurgical Ways to Prevent Pregnancy. As this leaflet will explain, oral contraceptives have several serious risks. Other methods of contraception have lesser risks or none at all. They are also less effective than oral contraceptives, but, used properly, may be effective enough for many women. The following table gives reported pregnancy rates (the number of women out of 100 who would become pregnant in 1 year) for these methods:

Pregnancies Per 100 Women Per Year

Intrauterine device (IUD), less than 1-6;
Diaphragm with spermicidal products (creams or jellies), 2-20;
Condom (rubber), 3-36;
Aerosol foams, 2-29;
Jellies and creams, 4-36;
Periodic abstinence (rhythm) all types, less than 1-47;
1. Calendar method, 14-47;
2. Temperature method, 1-20;
3. Temperature method—intercourse only in post-ovulatory phase, less than 1-7;
4. Mucus method, 1-25;
No contraception, 60-80.

The figures (except for the IUD) vary widely because people differ in how well they use each method. Very faithful users of the various methods obtain very good results, except for users of the calendar method of periodic abstinence (rhythm). Except for the IUD, effective use of these methods requires somewhat more effort than simply taking a single pill every morning, but it is an effort that many couples undertake successfully. Your doctor can tell you a great deal more about these methods of contraception.

3. The Dangers of Oral Contraceptives.

a. *Circulatory disorders (abnormal blood clotting and stroke due to hemorrhage.).* Blood clots (in various blood vessels of the body) are the most common of the serious side effects of oral contraceptives. A clot can result in a stroke (if the clot is in the brain), a heart attack (if the clot is in a blood vesel of the heart), or a pulmonary embolus (a clot which forms in the legs or pelvis, then breaks off and travels to the lungs). Any of these can be fatal. Clots also occur rarely in the blood vessels of the eye, resulting in blindness or impairment of vision in that eye. There is evidence that the risk of clotting increases with higher estrogen doses. It is therefore important to keep the dose of estrogen as low as possible, so long as the oral contraceptive used has an acceptable pregnancy rate and dosen't cause unacceptable changes in the menstrual pattern. Furthermore, cigarette smoking by oral contraceptive users increases the risk of serious adverse effects on the heart and blood vessels. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and begins to become quite marked in women over 35 years of age. For this reason, women who use oral contraceptives should not smoke.

The risk of abnormal clotting increases with age in both users and nonusers of oral contraceptives, but the increased risk from the contraceptive appears to be present at all ages. For oral contraceptive users in general, it has been estimated that in women between the ages of 15 and 34 the risk of death due to a circulatory disorder is about 1 in 12,000 per year, whereas for nonusers the rate is about 1 in 50,000 per year. In the age group 35 to 44, the risk is estimated to be about 1 in 2,500 per year for oral contraceptive users and about 1 in 10,000 per year for nonusers.

Even without the pill the risk of having a heart attack increases with

age and is also increased by such heart attack risk factors as high blood pressure, high cholesterol, obesity, diabetes, and cigarette smoking. Without any risk factors present, the use of oral contraceptives alone may double the risk of heart attack. However, the combination of cigarette smoking, especially heavy smoking, and oral contraceptive use greatly increases the risk of heart attack. Oral contraceptive users who smoke are about 5 times more likely to have a heart attack than users who do not smoke and about 10 times more likely to have a heart attack than nonusers who do not smoke. It has been estimated that users between the ages of 30 and 39 who smoke have about a 1 in 10,000 chance each year of having a fatal heart attack compared to about a 1 in 50,000 chance in users who do not smoke, and about a 1 in 100,000 chance in nonusers who do not smoke. In the age group 40 to 44, the risk is about 1 in 1,700 per year for users who smoke compared to about 1 in 10,000 for users who do not smoke and to about 1 in 14,000 per year for nonusers who do not smoke. Heavy smoking (about 15 cigarettes or more a day) further increases the risk. If you do not smoke and have none of the other heart attack risk factors described above, you will have a smaller risk than listed. If you have several heart attack risk factors, the risk may be considerably greater than listed.

In addition to blood-clotting disorders, it has been estimated that women taking oral contraceptives are twice as likely as nonusers to have a stroke due to rupture of a blood vessel in the brain.

b. *Formation of tumors.* Studies have found that when certain animals are given the female sex hormone estrogen, which is an ingredient of oral contraceptives, continuously for long periods, cancers may develop in the breast, cervix, vagina, and liver.

These findings suggest that oral contraceptives may cause cancer in humans. However, studies to date in women taking currently marketed oral contraceptives have not confirmed that oral contraceptives cause cancer in humans. Several studies have found no increase in breast cancer in users, although one study suggested oral contraceptives might cause an increase in breast cancer in women who already have benign breast disease (e.g., cysts).

Women with a strong family history of breast cancer or who have breast nodules, fibrocystic disease, or abnormal mammograms or who were exposed to DES (diethylstilbestrol), an estrogen, during their mother's pregnancy must be followed very closely by their doctors if they choose to use oral contraceptives instead of another method of contraception. Many studies have shown that women taking oral contraceptives have less risk of getting benign breast disease than those who have not used oral contraceptives. Recently, strong evidence has emerged that estrogens (one component of oral contraceptives), when given for periods of more than one year to women after the menopause, increase the risk of cancer of the uterus (womb). There is also some evidence that a kind of oral contraceptive which is no longer marketed, the sequential oral contraceptive, may increase the risk of cancer of the uterus. There remains no evidence, however, that the oral contraceptives now available increase the risk of this cancer.

Oral contraceptives do cause, although rarely, a benign (non-malignant) tumor of the liver. These tumors do not spread, but they may rupture and cause internal bleeding, which may be fatal. A few cases of cancer of the liver have been reported in women using oral contraceptives, but it is not yet known whether the drug casued them.

c. *Dangers to a developing child if oral contraceptives are used in or immediately preceding pregnancy.* Oral contraceptives should not be taken by pregnant women because they may damage the developing child. An increased risk of birth defects, including heart defects and limb defects, has been associated with the use of sex hormones, including oral contraceptives, in pregnancy. In addition, the developing female child whose mother has received DES (diethylstilbestrol), an estrogen, during pregnancy has a risk of getting cancer of the vagina or cervix in her teens or young adulthood. This risk is estimated to be about 1 in 1,000 exposures or less. Abnormalities of the urinary and sex organs have been reported in male offspring so exposed. It is possible that other estrogens, such as the estrogens in oral contraceptives, could have the same effect in the child if the mother takes them during pregnancy.

If you stop taking oral contraceptives to become pregnant, your doctor may recommend that you use another method of contraception for a short while. The reason for this is that there is evidence from studies in women who have had "miscarriages" soon after stopping the pill, that the lost fetuses are more likely to be abnormal. Whether there is an overall increase in "miscarriage" in women who become pregnant soon after stopping the pill as compared with women who do not use the pill is not known, but it is possible that there may be. If, however, you do become pregnant soon after stopping oral contraceptives, and do not have a miscarriage, there is no evidence that the baby has an increased risk of being abnormal.

d. *Gallbladder disease.* Women who use oral contraceptives have a greater risk than nonusers of having gallbladder disease requiring surgery. The increased risk may first appear within 1 year of use and may double after 4 or 5 years of use.

e. *Other side effects of oral contraceptives.* Some women using oral contraceptives experience unpleasant side effects that are not dangerous and are not likely to damage their health. Some of these may be temporary. Your breasts may feel tender, nausea and vomiting may occur, you may gain or lose weight, and your ankles may swell. A spotty darkening of the skin, particularly of the face, is possible and may persist. You may notice unexpected vaginal bleeding or changes in your menstrual period. Irregular bleeding is frequently seen when using the minipill or combination oral contraceptives containing less than 50 micrograms of estrogen.

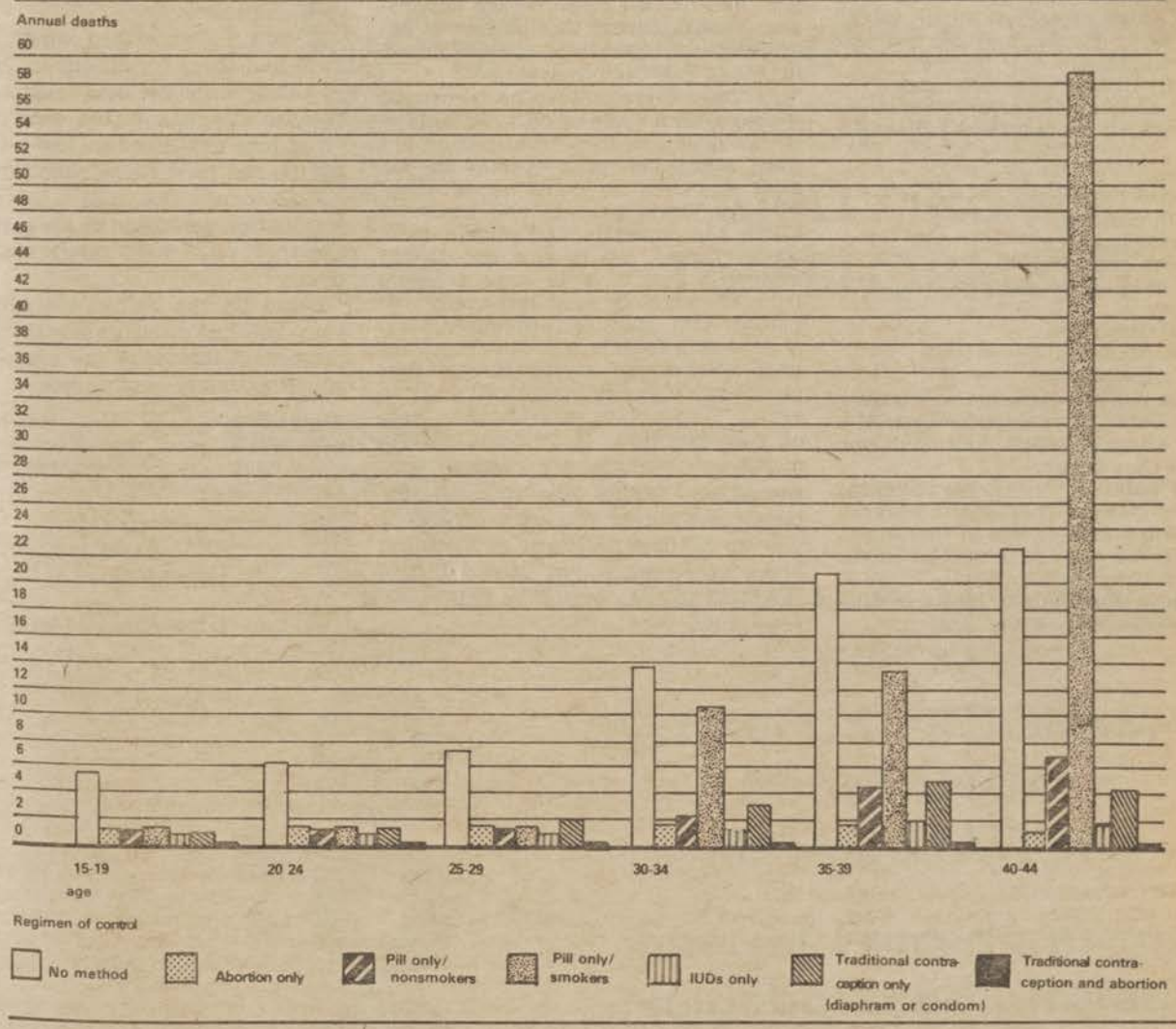
More serious side effects include worsening of migraine, asthma, epilepsy, and kidney or heart disease because of a tendency for water to be retained in the body when oral contraceptives are used. Other side effects are growth of preexisting fibroid tumors of the uterus; mental depression; and liver problems with jaundice (yellowing of the skin). Your doctor may find that levels of sugar and fatty substances in your blood are elevated; the long-term effects of these changes are not known. Some women develop high blood pressure while taking oral contraceptives, which ordinarily returns to the original levels when the oral contraceptive is stopped.

Other reactions, although not proved to be caused by oral contraceptives, are occasionally reported. These include more frequent urination and some discomfort when urinating, nervousness, dizziness, some loss of scalp hair, an increae in body hair, an increase or decrease in sex drive, appetite changes, cataracts, and a need for a change in contact lens prescription or inability to use contact lenses.

After you stop using oral contraceptives there may be a delay before you are able to become pregnant or before you resume having menstrual periods. This is especially true of women who had irregular menstrual cycles prior to the use of oral contraceptives. As discussed previously, your doctor may recommend that you wait a short while after stopping the pill before you try to become pregnant. During this time, use another form of contraception. You should consult your phsician before resuming use of oral contraceptives after childbirth, especially if you plan to nurse your baby. Drugs in oral contraceptives are known to appear in the milk, and the long-range effect on infants is not known at this time. Furthermore, oral contraceptives may cause a decrease in your milk supply as well as in the quality of the milk.

4. Comparison of the Risks of Oral Contraceptives and Other Contraceptive Methods. The many studies on the risks and effectiveness of oral contraceptives and other methods of contraception have been analyzed to estimate the risk of death associated with various methods of contraception. This risk has two parts: (a) the risk of the method itself (e.g., the risk that oral contraceptives will cause death due to abnormal clotting), and (b) the risk of death due to pregnancy or abortion in the event the method fails. The results of this analysis are shown in the bar graph below. The height of the bars is the number of deaths per 100,000 women each year. There are six sets of bars, each set referring to specific age group of women. Within each set of bars there is a single bar for each of the different contraceptive methods. For oral contraceptives, there are two bars—one for smokers and the other for nonsmokers. The analysis is based on present knowledge and new information could, of course, alter it. The analysis shows that the risk of death from all methods of birth control is low and below that associated with child birth, except for oral contraceptives in women over 40 who smoke. It shows that the lowest risk of death is associated with the condom or diaphragm (traditional contraception) backed up by early abortion is case of failure of the condom or diaphram to prevent pregnancy. Also, at any age the risk of death (due to unexpected pregnancy) from the use of traditional contraception, even without a backup of abortion, is generally the same as or less than that from use of oral contraceptives.

Figure 1. Estimated annual number of deaths associated with control of fertility and no control per 100,000 nonsterile women, by regimen of control and age of woman



HOW TO USE ORAL CONTRACEPTIVES AS SAFELY AND EFFECTIVELY AS POSSIBLE, ONCE YOU HAVE DECIDED TO USE THEM

1. What to Tell your Doctor.

You can make use of the pill as safely as possible, by telling your doctor if you have any of the following:

a. Conditions that mean you should not use oral contraceptives:

Clots in the legs or lungs.

Clots in the legs or lungs in the past.

A stroke, heart attack, or angina pectoris.

Known or suspected cancer of the breast or sex organs.

Unusual vaginal bleeding that has not yet been diagnosed.

Known or suspected pregnancy.

b. Conditions that you doctor will want to watch closely or which might cause him to suggest another method of contraception:

A family history of breast cancer.

Breast nodules, fibrocystic disease of the breast, or an abnormal mammogram.

Diabetes.

High blood pressure.

High cholesterol.

Cigarette smoking.

Migraine headaches.

Heart or kidney disease.

Epilepsy.

Mental depression.

Fibroid tumors of the uterus.

Gallbladder disease.

c. Once you are using oral contraceptives, you should be alert for signs of a serious adverse effect and call you doctor if they occur:

Sharp pain in the chest, coughing blood, or sudden shortness of breath (indicating possible clots in the lungs).

Pain in the calf (possible clot in the leg).

Crushing chest pain or heaviness (indicating possible heart attack).

Sudden severe headache or vomiting, dizziness or fainting, disturbance of vision or speech or weakness or numbness in an arm or leg (indicating a possible stroke).

Sudden partial or complete loss of vision (indicating a possible clot in the eye).

Breast lumps (you should ask your doctor to show you how to examine your own breasts).

Severe pain in the abdomen (indicating a possible ruptured tumor of the liver).

Severe depression.

Yellowing of the skin (jaundice).

2. How to Take the Pill So That It Is Most Effective.

(Manufacturer to supply information on dosage and administration and what to do if patient has forgotten to take one or two pills. Where applicable, manufacturers should supply appropriate information regarding use for other approved indications.)

At times there may be no menstrual period after a cycle of pills. Therefore, if you miss one menstrual period but have taken the pills *exactly as you were supposed to* continue as usual into the next cycle. If you have not taken the correctly and miss a menstrual period, or if you are taking mini-pills and it is 45 days or more from the start or your last menstrual period you may be pregnant and should stop taking oral contraceptives until your doctor determines whether or not you are pregnant. Until you can get to your doctor, use another form of contraception. If two consecutive menstrual periods are missed, you should stop taking pills until it is determined whether you are pregnant. If you do become pregnant while using oral contraceptives, you should discuss the risks to the developing child with your doctor.

3. Periodic Examination.

Your doctor will take a complete medical and family history before prescribing oral contraceptives. At that time and about once a year thereafter, he will generally examine your blood pressure, breasts, abdomen, and pelvic organs (including a Papanicolaou smear, i.e., test for cancer).

SUMMARY

Oral contraceptives are the most effective method, except sterilization, for preventing pregnancy. Other methods, when used conscientiously, are also very effective and have fewer risks. The serious risks of oral contraceptives are uncommon and the "pill" is a very convenient method of preventing pregnancy.

If you have certain conditions or have had these conditions in the past, you should not use oral contraceptives because the risk is too great. These conditions are listed in the leaflet. If you do not have these conditions, and decide to use the "pill," please read the leaflet carefully so that you can use the "pill" most safely and effectively.

Based on his or her assessment of your medical needs, your doctor has prescribed this drug for you. Do not give the drug to anyone else.

(Secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 35500 and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: January 18, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-2301 Filed 1-24-78; 10:43 am]

federal register

TUESDAY, JANUARY 31, 1978
PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

SECTION 8. HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

Special Procedures for Neighborhood Strategy Areas

[4210-01]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R 77-387]

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

Special Procedures for Neighborhood Strategy Areas

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule sets forth policies and procedures under which Section 8 Substantial Rehabilitation under this subpart may be used in identified Neighborhood Strategy Areas (NSAs) where it is expected that concentrated community development and other housing activities will revitalize the area within a specified period of time.

DATES: Effective date: January 31, 1978. Comment date: Additional comments on this Final Rule should be filed with the Rules Docket Clerk by June 1, 1978.

ADDRESS: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-7603.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmitz, Acting Director, Section 8 and Leased Housing Division, Office of Assisted Housing Development, Office of Assisted Housing, U.S. Department of Housing and Urban Development, Room 6254, 202-755-5380.

SUPPLEMENTARY INFORMATION: Units of general local government eligible to utilize these special procedures are those local governments which are applying for or are receiving assistance under 24 CFR, 570.102 or 570.103. Approval of a request from a unit of local government to use the special procedures (1) assures the general availability of HUD mortgage insurance in the NSA, and (2) sets aside a specific amount of Section 8 Substantial Rehabilitation contract authority for use in the NSA, and (3) authorizes the local government to solicit Section 8 Substantial Rehabilitation Proposals for up to the amount of contract authority set aside. The local government will then review and submit to HUD, which has final approval authority, Section 8 Substantial Rehabilitation Proposals that it believes are approvable together with certain certifications concerning those proposals.

The contract and budget authority available for use under these special procedures in this fiscal year will come from authority retained by the Secretary pursuant to § 891.403(b). Proposals or applications for other assisted housing programs will be handled under regular procedures except that appropriate waivers may be granted to support the NSA program pending the modification of the regulations and issuances applicable to the other programs.

The diversity of housing types and ownership patterns in a proposed NSA may mean that one type of assistance such as assistance provided under this Subpart will not suffice to encourage the volume of housing rehabilitation required to solve the problems of housing deterioration in a neighborhood. Accordingly, local governments should explore the use of all possible rehabilitation financing mechanisms when developing NSA requests. Similarly, when developing plans for public improvements and services (including relocation) in a proposed NSA, local governments should consider a variety of resources such as the Community Development Block Grants (block grant), including Urban Development Action Grants (UDAG), and local funds. In this regard, section 881.301(c), which defines an eligible NSA area, is designed in part to ensure that assistance under this Subpart is targeted to areas in which all eligible block grant physical development activities and public services may be carried out.

On January 31, 1977, the Department published in the FEDERAL REGISTER (42 FR 5918) a proposed rule to revise 24 CFR, Part 881 of the Section 8 Housing Assistance Payments Program—Substantial Rehabilitation Regulations by adding a new Subpart C to create special procedures for Neighborhood Renewal Strategy Areas. Interested persons had until March 2, 1977, to submit written comments.

By the end of the comment period, 18 written comments had been received. All of these comments, as well as several received after the comment period, were carefully considered. Changes have been made to the Regulations as published for comment. A discussion of the major changes and of the more recurrent and significant comments follows:

NEIGHBORHOOD STRATEGY AREAS

The name of the areas eligible for consideration under these procedures has been changed from Neighborhood Renewal Strategy Areas to Neighborhood Strategy Areas (NSAs).

MORE THAN ONE NSA MAY BE PERMITTED

Several comments expressed concern that the limitation on the use of these special procedures to only one NSA in a locality was unduly restrictive. This may be true in certain cases. Accordingly, section 881.303(a) has been revised to provide that a local government may request, and HUD may approve, more than one NSA within the jurisdiction of the local government.

LENGTH OF TIME ALLOWED FOR SUBMISSION OF PROPOSALS

Two comments expressed concern that the requirement that "all Proposals submitted under these special procedures be submitted to HUD within six months after approval of the (NSA) request" allowed insufficient time for Proposals to be developed. It was suggested that the contract and budget authority to be used under these procedures be available for the life of the local government's program, with Proposals submitted according to a local schedule.

In response to these comments, section 881.304(f) is revised to allow submission of proposals based upon a schedule mutually agreed upon by HUD and the local government. If it appears that the local government will not be able to meet the schedule, it may be renegotiated. However, the provisions of section 881.308 allow the Field Office to use the contract and budget authority set aside under this Subpart for other proposals under this Subpart or for other purposes if the original schedule is not met.

APPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Two comments noted that, in the case of a privately owned section 8 substantial rehabilitation project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) was inapplicable. It was suggested that the Uniform Act should apply to all proposals approved under these special procedures. The Uniform Act does not apply to rehabilitation of privately owned projects or to rehabilitation by PHAs where no acquisition takes place. However, this final rule provides that the local government shall be responsible for relocation payments and services, at a level equivalent to the requirements of the Unform Act, to all tenants displaced by rehabilitation undertaken under this subpart. These payments and services may be paid for with block grant funds. Also added is a provision which gives the option in certain cases to assist affected persons who would be eligible under the section 8 existing housing program through the issuance by the Public Housing Agency (PHA) of a Certificate of Family Participation in lieu of rental assistance payments.

ENVIRONMENTAL CLEARANCE REQUIREMENTS—RELATIONSHIP WITH BLOCK GRANT PROGRAM

Comments were received which addressed the environmental assessment requirement for each section 8 proposal submitted for an approved NSA. It was suggested that the process be simplified by changing this Subpart to permit the environmental clearance done under the block grant regulations to suffice for each subsequent section 8 proposal. Because the requirements of the National Environmental Policy Act of 1969 do not permit the suggested change to be made with respect to environmental review, this requirement has not been revised.

In the interest of coordinated planning by a locality, language was included in § 881.303(b) to encourage applicants to submit requests for NSA approvals simultaneously with their block grant applications.

CONFORMITY WITH SITE AND NEIGHBORHOOD STANDARDS

A number of comments expressed a concern that the neighborhoods which would be most appropriate as NSAs do not at present comply with the site and neighborhood standards for the section 8 substantial rehabilitation program as prescribed in § 881.112. While the Department is considering a revision of these regulations which may have the effect of permitting more neighborhoods to qualify as NSAs, the standards of § 881.112 shall continue to be applicable to all section 8 substantial rehabilitation proposals.

Where the local government proposes to use other assisted housing programs, such as section 8 new construction or public housing, the site and neighborhood standards which apply to those programs also remain applicable.

ALLOCATION OF NEW CONSTRUCTION UNITS

It was suggested that HUD consider allocating new construction units where needed in NSAs. In cases where section 8 new construction is needed as part of the overall strategy for the area, the local government may request preapproval of a site or sites within the NSA pursuant to the section 8 new construction regulations (see § 880.203(e)). However no more than 20 percent of the authority to be made available by the Secretary for set asides under these special procedures may be used for section 8 new construction. In addition, other housing programs such as public housing or the sction 235 program may be utilized in the NSA.

APPLICABILITY TO AREAS WITHOUT THE NEED FOR CONCENTRATED DEVELOPMENT

Comments were received which suggested that these special procedures are limited to areas that receive concentrated physical redevelopment activities while some areas suitable for section 8 substantial rehabilitation may not need such activities. This limitation is intentional. These procedures are specifically designed for areas where concentrated revitalization is planned. Other substantial rehabilitation needs should be identified in local housing assistance plans and addressed through the regular procedures in Subpart B, or through other assisted or unassisted housing programs.

AREAS RECEIVING BLOCK GRANT FUNDS FROM ANOTHER UNIT OF GOVERNMENT

NSAs may be located in communities which receive block grant funds from another unit of general local government such as an urban county. However, both the request for approval of the NSA and any proposals must be submitted by the block grant program recipient which is an eligible applicant as defined in § 881.301.

OTHER SIGNIFICANT REVISIONS AND CLARIFICATIONS

In response to a comment that additional public services need not always be part of NSAs, § 881.303(a) has been changed to make it clear that physical redevelopment, public improvements, and public services are examples of acceptable types of concentrated neighborhood development activities.

Several comments addressed the issue of how special procedures would work in NSAs where one to four unit properties predominated. Properties of this type may be difficult to process under normal section 8 substantial rehabilitation procedures. It is recognized that it may be difficult for owners of such properties to comply with the processing and documentation requirements of the section 8 program. However, it is anticipated that the assistance provided by the local government, coupled with the less competitive nature of these special procedures, will help to resolve this problem.

Comments expressed concern for the rights of tenants occupying units in structures to be rehabilitated under this Subpart. One comment proposed that previous tenants be given the choice of remaining in their units, or, if eligible, receive first priority for section 8 housing assistance. We have determined that the new requirements in § 881.309 providing relocation payments and services give adequate protection to tenants occupying units to be rehabilitated under these special procedures.

Several comments were received concerning the need for HUD to provide technical training and assistance if inexperienced local governments are expected to be able to submit requests for approval of an NSA and to assist owners in the preparation of specific proposals. Field Office staff will be available to provide assistance to local governments who undertake NSAs, and, when possible, HUD will offer training to local governments which are selected for participation.

Comments were received which asked for a definition of the term "Owner" and also asked if the term covered nonprofit sponsors and developers. The term "Owner" as defined in § 881.102 covers any entity which has the legal right to lease or sublease units. This includes nonprofit sponsors.

One comment suggested that guidance was needed concerning when the services of an architect would be advisable or required. Because of the nature of rehabilitation, the determination of the need for an architect must be made on an individual basis. Moreover, in certain cases either HUD mortgage insurance or local ordinances may specify when an architect's services are required.

Because of the importance of this regulation in making assistance available to areas which will qualify as neighborhood strategy areas, it has been determined that it is in the public interest to make these regulations effective on publication. However, because of the many changes that were made as a result of considering comments previously received, HUD invites further comments on this final rule. Comments received, along with experience in implementing the program, will be considered to determine any needed amendments to these regulations.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, 24 CFR, Chapter VIII, Part 881 is revised as follows:

§ 881.102 [Amended].

(1) In Subpart A, § 881.102.

(a) A definition for neighborhood strategy area (NSA) is inserted between the definitions for "Lower-Income Family" and "New Communities" as follows: Neighborhood Strategy Area (NSA). An area approved by HUD where assistance under Subpart C of this Part will be provided. See § 881.301(c).

(2) A table of contents for Subpart C is added as follows:

Subpart C—Special Procedures for Neighborhood Strategy Areas

Sec.
881.301 Applicability and scope.
881.302 Contract and Budget Authority available for use under this subpart.
881.303 Request by local government for approval of NSAs.
881.304 HUD review of requests for NSA(s) approval.
881.305 Submission of proposals for projects within NSAs.
881.306 HUD evaluation and approval of proposals not indicating HUD mortgage insurance.
881.307 Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.
881.308 Use of contract authority not reserved.
881.309 Relocation for section 8 substantial rehabilitation under subpart C.

(3) Subpart C is added as follows:

Subpart C—Special Procedures for Neighborhood Strategy Areas

§ 881.301 Applicability and scope.

(a) *General.* This Subpart sets forth: (1) The policies and procedures for requests made by units of general local government for approval by HUD of neighborhood strategy areas (NSAs) (see paragraphs (b) and (c) of this section), and (2) the special procedures to be used by local governments and HUD for securing and processing section 8 substantial rehabilitation proposals under this Subpart.

(b) *Eligible applicants.* Units of general local government eligible to participate are those which are applying for or are receiving assistance under the community development block grant (block grant) program pursuant to 24 CFR 570.102 and 570.103.

(c) *Eligible areas.* To be approvable, a proposed NSA must be a residential area where concentrated housing and block grant assisted physical development and public service activities are being, or are to be, carried out in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy for neighborhood improvement, conservation or preservation. The area shall be of manageable size and condition, so that block grant and other resources to be committed to the area can reasonably be expected to meet the identified physical development and housing needs within a 5-year period. The local plan (see § 881.303) shall provide for a coordinated program of development activities, such as necessary public improvements facilities and services, private investments, citizen self-help activities and coordination of the efforts of public and private agencies and neighborhood organizations.

(d) *Applicability of subparts A and B.* Provisions of Subpart A are applicable except as modified herein. Section 881.104, which contains preferences for certain types of projects, shall not apply. Sections 881.302 through 881.306 shall apply in lieu of §§ 881.202 through 881.210 of Subpart B for proposals not indicating HUD mortgage insurance under these special procedures. For proposals which indicate HUD mortgage insurance, §§ 881.302–881.305 and § 881.307 shall apply in lieu of §§ 881.202 though 881.208.

(e) *Use of other housing assistance programs.* Other housing assistance programs such as the public housing program, the section 8 existing housing program, and the section 235 program, for which contract authority is not included in this set aside may be necessary in order to accomplish the revitalization strategy. In such cases the Field Office shall consider the approval of projects pursuant to other programs if contract authority is available. Appropriate waivers of the regulations governing such other assisted housing programs will be considered to facilitate their use in, or in support of, the NSA.

§ 881.302 Contract and budget authority available for use under this subpart.

(a) *Authority available from initial allocation.* [Reserved]

(b) *Authority made available by Secretary.* HUD will publish a notice in the FEDERAL REGISTER indicating:

(1) The amount of contract authority to be made available under this Subpart and the approximate number of units this authority is expected to assist;

(2) The criteria, including but not limited to the criteria in § 881.304(e), which will be used in selecting NSAs to receive the authority being made available; and

(3) The date by which requests for approval of NSAs pursuant to § 881.303 must be submitted to the appropriate Field Office in order to be considered for assistance.

(c) *Contract and budget authority not reserved.* Contract and budget authority set aside by HUD for local governments under these special procedures not obligated during a fiscal year will be set aside in the subsequent fiscal year if:

(1) Contract and budget authority are available for this purpose; and

(2) HUD determines that the local government is making satisfactory progress in meeting the schedule described in § 881.304(f)(4).

§ 881.303 Request by local government for approval of NSAs.

(a) *Request for Approval of One or More NSAs.* A local government may submit to HUD a request for approval of an area as an NSA which is expected to receive concentrated community development activities (e.g., physical redevelopment, public improvements and services) assisted by the local government's block grant program pursuant to 24 CFR Part 570. The local government may request and HUD may approve more than one NSA within the jurisdiction of the local government.

(b) *Coordination with the Community Development Planning Process.* Eligible applicants are encouraged to submit requests for approval of an NSA simultaneously with their applications for the block grant program. However, requests may be submitted at any other time if a block grant application or amendment which supports the activities in Section 881.303(d) has been approved or is under review by HUD. In either case, the request, while it will reflect part of the local government's community development planning, shall not be considered part of the block grant application.

(c) *A-95 Procedures.* Any request under paragraph (a) of this Section shall be submitted by the local government to the appropriate A-95 Clearinghouse for review and comment prior to or simultaneously with the submission of the request to HUD, unless the request was submitted with the block grant application and has therefore complied with the requirements under 24 CFR Part 570.

(d) *Contents.* A local government request for approval shall include:

(1) A map or maps of the applicant's jurisdiction which clearly identify:

(i) Location of the proposed NSA;

(ii) Existing land uses and major traffic routes in the proposed NSA, and an area at least one block deep outside the perimeter of the NSA;

(iii) Location of shopping, public transportation stops, personal services, social services, and community services either inside or outside the NSA which would serve the NSA.

(2) A description of the proposed NSA's demographic and physical characteristics; an assessment of the extent to which the area currently meets site and neighborhood standards contained in § 881.112 and the environmental standards contained in § 881.114; and an evaluation of the feasibility of rehabilitation given the condition of the buildings in the proposed NSA and the general willingness and financial capability of the property owners to participate in revitalization efforts.

(3) A specific plan which identifies how deficiencies in the neighborhood are to be remedied. This shall include (i) a description of all activities to be undertaken including any activities necessary to correct deficiencies under § 881.112, such as public improvements and services and new public and private construction; (ii) the cost and source of funding of public activities

in the NSA (i.e., the concentrated block grant activities to be carried out and other related support from Federal, State, local and private programs that are not detailed in the block grant application); and (iii) a schedule for completing the activities. If the local government fails to provide the activities identified in this paragraph (d)(3) in conformance with the approved schedule, HUD may withdraw the unreserved portion of the set-aside and proceed in accordance with § 881.309.

(4) A proposed housing revitalization program which includes the following:

(i) The total number of units in the NSA broken down by the number which require no rehabilitation, the number to be demolished, the number to be rehabilitated by tenure type (owner occupied or rental), and the number of new units to be con- structed.

(ii) the number of units by size (number of bedrooms), and structure type (e.g., detached, walkup, elevator) for which contract authority under these special procedures is requested, and the estimated amount and expected source of permanent financing for both assisted and nonassisted units to be rehabilitated. Examples of sources of financing or rental subsidy which the local government should consider for all units in the NSA include Community Development Block Grant funds, the 312 loan program, State and local financing programs, private financing, and all of HUD's assisted and mortgage insurance programs. When the local government proposes to use financing provided by a State Housing Finance and Development Agency (HFDA) or by a Public Housing Agency (PHA), either Section 8 or public housing assistance, the request shall include a letter from the appropriate HFDA or PHA stating that the agency agrees to cooperate with the local government in providing financing for projects in the NSA and will submit applications and proposals to HUD in accordance with the local government's housing revitalization program.

(5) A statement describing the means by which residents and property owners of the proposed NSA are and will continue to be involved in the development and execution of the neighborhood strategy. (This statement shall not substitute for the Citizen Participation Certification required by the block grant program.)

(6) A statement that the NSA request was submitted to the A-95 Clearinghouse prior to or simultaneously with the submission of the request to HUD and that the Clearinghouse has been requested to send any comments it has to HUD.

(7) A statement outlining the relocation payments and services which will be provided in accordance with the requirements of Section 881.309. This statement shall include an estimate of the cost of relocation and shall include the source of funds to be used for this purpose. When the local government proposes to use the Section 8 existing housing program as part of its relocation program, the request shall be accompanied by a letter from the appropriate PHA indicating its willingness to provide such assistance. The statement shall indicate that all services will be provided which are necessary to provide minorities, female heads of household, and other low-income families with the opportunity to take advantage of housing choices outside the areas of minority concentration and low-income areas containing an undue concentration of persons receiving housing assistance.

(8) A description of the administrative structure which the local government proposes to use to implement these special procedures.

(9) A proposed schedule for submission of Proposals.

(10) A statement that indicates that the proposed NSA is eligible pursuant to § 881.301(c).

(11) A statement that the request is consistent with the Local Housing Assistance Plan that has been approved by HUD or submitted to HUD for approval by the local government.

§ 881.304 HUD review of requests for NSA(s) approval.

(a) *Field Office Review.* The Field Office shall review each request to determine whether it meets the following requirements:

(1) The request is consistent with the Local Housing Assistance Plan that has been approved or submitted for approval by the local government.

(2) A sufficient number of units suitable for rehabilitation under this Subpart are located in the area either on sites which conform with the site and neighborhood standards in § 881.112, or on sites which will conform when the activities described in § 881.303(d)(3) are completed. However, when the request for approval of an NSA indicates the intention to use programs other than Section 8 Substantial Rehabilitation, such as Section 8 New Construction or Public Housing, the site and neighborhood standards of those programs shall be applicable.

(3) The area contains no major obstacles to meeting the environmental standards of § 881.114 or any other applicable environmental standards which cannot be remedied by the activities proposed for the area. This review shall not substitute for the environmental review required by § 881.306(b) for each Proposal subsequently submitted.

(4) The relocation payments and services proposed by the local government are acceptable.

(5) The present condition of the neighborhood is such that a suitable living environment is expected to result after implementation of the proposed activities outlined in § 881.303(d)(3) and the provision of housing assistance described in § 881.303(d)(4).

(6) The administrative structure proposed by the local government appears to be appropriate.

(7) The activities proposed to correct deficiencies described in § 881.303(d)(3), the proposed housing revitalization program described in § 881.303(d)(4), and the schedule set forth in § 881.303(d)(9) appear feasible and can reasonably be expected to be completed in the specified time. If the proposed activities require an amendment to the current approved block grant application or to the block grant application under HUD review, the NSA request shall not be approved until the amendment or the application is approved.

(8) The local government's citizen participation program has involved the residents and property owners of the NSA in the development of the strategy and is designed to facilitate their continuing participation in the implementation, monitoring, evaluation and adjustment of the strategy.

(9) The proposed NSA(s) is an eligible area pursuant to Section 881.301(c).

(b) *A-95 Comment.* HUD shall review and consider any comments received from the A-95 Clearinghouse.

(c) *Additional Information and Modifications.* If, during review of the request, HUD finds that additional information is necessary, or that modifications are necessary, it may request such additional information or modifications and/or meet with representatives of the local government to resolve outstanding questions concerning the request.

(d) *Field Office Determination.* The Field Office shall submit those requests it determines acceptable to the Assistant Secretary for Housing for approval. If the Field Office determines that a local government's request is not acceptable, it shall notify the local government of the reasons.

(e) *Review by HUD.* When limited availability of contract and budget authority requires the Assistant Secretary for Housing to select among local governments responding to the Notice, priority shall be given based on the following:

(1) The degree of local public commitment to the program as evidenced by Community Development Block Grant and other Federal, state, or local programs and funds that have been designated for supporting activities;

(2) The extent of existing or proposed private commitment such as pri-

vate financing in the area, local agreements for special wage rates for rehabilitation or other support activities;

(3) The overall quality and feasibility of the program described in the request for approval of an NSA;

(4) The extent to which rehabilitation is expected to be completed without causing permanent displacement;

(5) The demonstrated capacity of the local government to manage housing and community development programs;

(6) The demonstrated capacity of the local government to promote fair housing and equal opportunity for members of minority groups and female heads of household;

(7) The potential of achieving, in the speediest manner possible, the reservations of housing units under this Subpart.

(f) *Notification of Local Governments.* The Assistant Secretary shall notify each Field Office as to which NSAs in its jurisdiction have been approved or disapproved. The Field Office shall notify the local government of this determination. If the request is not approved, the notification shall indicate the reasons. If the request is approved, the notification shall include:

(1) An identification of the approved NSAs and a statement that Section 8 Substantial Rehabilitation Proposals may be processed pursuant to these special procedures.

(2) The amount of contract and budget authority which has been set aside for use in the NSA and the approximate number of units by household type this authority is expected to support, and a statement of the conditions set forth in § 881.302(c).

(3) A statement that, for purposes of making underwriting determinations under the National Housing Act, the improvements pledged in the request shall be considered as though they were now complete and that HUD mortgage insurance will be generally available in the NSA; provided however that each site or property will be reviewed individually for underwriting purposes to determine its eligibility for insurance.

(4) A schedule, mutually agreed upon by the Field Office and local government, for submission of Proposals.

(g) *Notification of Other Agencies.* If the set aside includes contract authority for projects to be financed by an HFDA or owned by a PHA, the notification shall indicate the amount of such contract authority. Additionally, the Field Office shall notify the appropriate HFDA or PHA of the set-aside and indicate that the authority is only available for use in the NSA in accordance with the local government's housing revitalization plan. The HFDA or PHA shall then follow the regular procedures in obtaining applications and proposals; however, the concurrence of the local government must be obtained on every application or proposal submitted to HUD pursuant to the set-aside.

§ 881.305 Submission of proposals for projects within NSAs.

(a) *Request for Proposals.* After the notification by HUD of the availability of contract and budget authority pursuant to § 881.304(f) has been received by the local government, the local government shall invite (through negotiation, advertisement, or other means), the preparation and submission of Proposals for projects within the designated NSA. The local government shall publish a notice in a newspaper of general local circulation which sets forth the number of units by household type available and the boundaries of the NSA. This notice shall also describe how the local government (and if applicable, the HFDA and/or PHA) will solicit and process Proposals.

(b) *Basic Information.* The local government shall provide basic information to interested Owners and developers concerning the special procedures of this Subpart including: (1) A copy of these regulations; (2) where Minimum Design Standards for Rehabilitation for Residential Properties or HUD Minimum Property Standards and other applicable regulations, standards, and forms, may be obtained; (3) requirements and information necessary to enable the interested parties to submit a Proposal; and (4) the assistance the local government will provide to Owners. The local government shall also provide information to interested parties about how to obtain financing, other rental assistance, or mortgage insurance which the local government has determined will be necessary to achieve the revitalization of the NSA.

(c) *Assistance in Development and Review of Proposals by Local Government.* The local government shall, to the extent necessary to assure adequate Owner interest and viable Proposals, assist Owners in the preparation of Proposals. The local government shall review comprehensively all Proposals to make the certifications required by § 881.305(g). The local government shall transmit to HUD for review section 8 Substantial Rehabilitation Proposals it believes are approvable.

(d) *Local Assurances.* The local government shall assure that the Proposals processed under these special procedures will not collectively require contract and budget authority in excess of the amount set aside in the notification pursuant to § 881.304(f).

(e) *Timely Submissions.* The local government shall assure that Proposals are prepared and submitted in accordance with the agreed upon schedule provided for in § 881.304(f)(4). If approvable Proposals sufficient to use the contract and budget authority set aside for use in NSA(s) have not been submitted by the established deadline, including any extensions approved by the field office, HUD shall follow the procedures of § 881.308 concerning the use of residual contract authority.

(f) *Submission and Review.* Submission and review requirements for section 8 Substantial Rehabilitation Proposals requesting simultaneous processing for HUD mortgage insurance are found in § 881.307. Proposals not requesting simultaneous HUD mortgage insurance processing shall include the following:

(1) The address(es) of the property(ies) proposed to be rehabilitated.

(2) The identity of the Owner(s), rehabilitator(s) (if known), and architect(s) (if applicable and identity is known); the officials, principal members, shareholders, investors, and other parties having substantial interest, and the prior participation of each in HUD programs on the prescribed forms; and a disclosure by each party of any possible conflict of interest which would be in violation of the ACC, Agreement, or Contract.

(3) A description of the property(ies) as is, including number and type of structures, number of stories, structural system, number of units by size (number of bedrooms), living area and composition of each size of unit, special amenities or features, if any; and sketches for the interior, showing dimensions. If appropriate, typicals may be provided.

(4) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, renovation, or remodeling is indicated a description of such work and sketches showing the layout after completion of rehabilitation shall be submitted. If appropriate, typicals may be provided.

(5) The number of units by unit size (numer of bedrooms) and type of occupancy (elderly or handicapped or family) proposed for the property after the completion of rehabilitation.

(6) A description of the existing utility combination, whether a change to a different combination is proposed, and, if so, a description of the new utility combination.

(7) A statement as to whether the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(8) The proposed Contract Rent for each unit, by size and structure type.

(9) The equipment, utilities and services to be included in the proposed Contract Rent and those utilities and services not so included. For each utility and service not included in the proposed Contract Rent, an estimate of the average monthly cost to occupants for the first year of occupancy by size and structure type.

(10) The proposed term of each Contract (including renewals), and justification for such term in accordance with § 881.109.

(11) Whether the proposed rehabilitation will displace site occupants. If so, the Proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status and whether they are owners or renters). See § 881.309 for relocation requirements.

(12) Submission of evidence of management capability and a proposed management plan and a certification by the Owner and the managing agent, if any, in a format acceptable to HUD; if the proposed project is for fewer than 15 units, evidence of capability of providing necessary management and maintenance services. If the Owner proposes to contract with another entity for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(13) A signed certification that the Owner intends to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246 and Section 3 of the Housing and Urban Development Act of 1968, and that the Owner will take affirmative action to provide the opportunity to apply for units in the proposed projects to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plan.

(14) If the proposed project consists of five or more units, submission of an Affirmative Fair Housing Marketing Plan together with a statement of the affirmative actions the Owner expects to take to provide the opportunity to apply for units in the proposed project to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plans.

(15) Submission of the form of Lease the Owner proposes to use. The form of lease shall be in accordance with § 881.219.

(16) The anticipated time required for completion of the rehabilitation after the Agreement is signed. If the rehabilitation is to be completed in stages, an identification of the units comprising each stage and the estimated dates for commencement and completion of each stage shall be provided.

(17) The proposed method (e.g., conventional mortgage, Farmers Home, HUD mortgage insurance, or bonds) and anticipated terms of financing (e.g., interest rates, discounts, amortization plan and term) and evidence of review and interest by a lender, bond underwriter or counsel, or similar evidence that financing would likely be available should the Proposal be selected. Such evidence of financing is not required if the Owner proposes to utilize HUD mortgage insurance (see § 881.307) or the FmHA Section 515 Rural Rental Housing Program. In such cases, either the prescribed HUD form or evidence that a preapplication has been submitted to the FmHA shall be submitted with the Proposal. A statement shall be included in all Proposals as to whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (See § 881.115(b)).

(g) *Required Information.* Each Proposal not requesting simultaneous processing for HUD mortgage insurance shall be accompanied by the following information from the local government:

(1) A certification by the chief executive officer of the local government that (i) the property proposed for Substantial Rehabilitation is within the designated NSA; and (ii) the Proposal is consistent with the requirements and restrictions of the approved Local Housing Assistance Plan and the approved NSA.

(2) A certification that the Owner has title to the property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures, a certification that the proposed reuse is consistent with local zoning or other land use codes, ordinances, or regulations and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances, or regulations.

(5) Identification of properties included in, or eligible for inclusion in, the National Register of Historic Places within the area affected by the Proposal and information on the Proposal's effect on such properties to comply with the National Historic Preservation Act (16 USC SS470 as amended by Pub. L. 94-422), the Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800), the Archeological and Historical Preservation Act of 1974 (Pub. L. 93-291), and Executive Order 11593, "Protection and Enhancement of the Cultural Environment."

(h) *Other housing programs.* Proposals for housing assistance programs other than Section 8 Substantial Rehabilitation under this subpart which are identified by the local government as part of its strategy shall be submitted and processed in accordance with applicable program regulations and issuances.

§ 881.306 HUD evaluation and approval of proposals not indicating HUD mortgage insurance.

(a) *Evaluation of proposals.* Each Proposal shall be evaluated by HUD to determine whether:

(1) The Proposal and the certifications submitted by the local government contain all the elements required by § 881.305 (f) and (g).

(2) The proposed Contract Rents plus any Allowances for Utilities and Other Services do not exceed the Fair Market Rent limitations pursuant to § 881.108(a).

(3) The proposed Contract Rents are reasonable pursuant to § 881.108(b).

(4) The proposed term of the Contract (including renewals) is acceptable in accordance with § 881.109.

(5) The form of lease meets the requirements of § 881.219.

(6) The previous experience of the Owner and other key participants in development and management is acceptable.

(7) The management capability of the Owner and/or his managing agent, the proposed management plan, and the proposed management agreement/contract(s) are acceptable.

(8) The Affirmative Fair Housing Marketing Plan is acceptable.

(9) The provisions for relocation are acceptable (see § 881.309).

(10) The Proposal as a whole, including the rehabilitation plan and design, will result in decent, safe, and sanitary housing.

(11) The nature and extent of the rehabilitation are such that the services of a registered architect must be used.

(12) The proposed method and terms of financing are acceptable (see also §§ 881.115 and 881.125).

(13) The proposed utility combination is acceptable.

(14) There are no apparent conflicts of interest which would be in violation of the Agreement, Contract, or ACC.

(b) *Environmental review.* HUD will conduct an environmental review of the Proposal in accordance with HUD procedures.

(c) *A-95 comments.* HUD shall review and consider any comments about the Proposal received from the A-95 Clearinghouse.

(d) *Clarification or modification.* HUD may request clarification of individual items, additional information, or modification of the Proposal including substitution of alternate properties.

(e) *HUD review of local government certifications.* Generally, in reviewing

any local government certification required by this Part, HUD shall accept the certification as correct. However, if HUD has substantial reason to question the correctness of any certification, HUD shall promptly bring the matter to the attention of the local government and ask the local government review its findings. After such review HUD will act in accordance with the judgment or evaluation of the local government unless HUD determines that the certification is not supported by available evidence.

(f) *HUD determination.* HUD shall notify the local government and the Owner that the Proposal is:

(1) *Approved.* This notification shall include the statements required by § 881.208(h)(1) (i), (ii), (iii), (iv), (v), and (vi). 881.208(h) (2) and (3) shall apply. Following approval the Proposal shall be deemed to be a Final Proposal within the meaning of § 881.211, et seq. All further actions with regard to Proposals approved pursuant to this section shall be in accordance with Subpart B of these regulations starting with § 881.211.

(2) *Not approved.* The notification shall indicate the reasons for disapproval, and, where appropriate, that the local government may submit substitute Proposals to use remaining contract and budget authority.

(g) *Clearinghouse notification.* In all cases, the appropriate A-95 Clearinghouse shall be notified by HUD of its final action.

§ 881.307 Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.

(a) *Concurrent processing.* Where an Owner indicates that he intends to utilize HUD mortgage insurance, the following shall apply:

(1) *Preapplication meetings.* Proposals requesting simultaneous processing for HUD mortgage insurance will not be accepted from the local government unless a preapplication meeting has been held in the Field Office. The local government will be advised of any major obstacles to approval of HUD mortgage insurance which are discovered by the Field Office as a result of the meeting.

(2) *Initial submission requirements:*

(i) The Owner's application for a Feasibility Letter on the prescribed form with appropriate exhibits.

(ii) Documentation required from the Owner by § 881.305(f) (2), (6), (9), (10), (11), (13), (15) and (16).

(iii) Certifications from the local government required by § 881.305(g) (1), (3), (4), and (5).

(3) *Evaluation of submission.* Each submission shall be evaluated by HUD to determine:

(i) The acceptability and feasibility of the application for HUD mortgage insurance. For purposes of making underwriting determinations for all HUD mortgage insurance programs, the improvements pledged in the request shall be considered as though they were now complete.

(ii) The acceptability of the Proposal for Section 8 assistance in accordance with § 881.306(a) (1), (2), (4), (5), (6), (9), (10), (11), and (14).

(iii) The reasonableness of the proposed Contract Rents pursuant to § 881.108(b).

(4) *HUD determination.* HUD shall notify the local government and the Owner that the submission is:

(i) *Approved.* A notification of Proposal approval for Section 8 assistance in accordance with § 881.208(h) shall be transmitted simultaneously with the feasibility letter.

(ii) *Approvable with modifications.* HUD may issue a Letter which conditions approval of the Proposal, for mortgage insurance and/or Section 8 assistance, on correction of specified deficiencies including the substitution of alternative property(ies).

(iii) *Not approved.* If the Proposal is not approved, a Letter shall be sent indicating the reasons for such disapproval.

(b) *Delayed mortgage insurance processing.* If an Owner does not indicate in the Proposal an intent to utilize HUD mortgage insurance and applies for HUD mortgage insurance after approval by HUD of the Proposal for Section 8 assistance, he risks (1) having the Proposal rejected for HUD mortgage insurance, and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the Proposal approved under this Subpart.

(c) *Subsequent processing.* Following approval of a Proposal involving HUD mortgage insurance, subsequent processing shall be in accordance with Subpart B of these regulations starting with Section 881.209.

§ 881.308 Use of Contract Authority Not Reserved.

If Proposals containing a sufficient number of units to utilize the contract and budget authority set aside for use in an NSA under this Subpart are not submitted in accordance with the schedule provided in § 881.304(f)(4) or any approved extensions thereto, or if an approved Proposal fails to result in an Agreement, the Field Office shall either:

(a) Authorize the local government to submit other Proposals for projects within the approved NSA(s) to utilize the remaining contract and budget authority; or

(b) Issue a NOFA for the allocation area in which the NSA is located to utilize the remaining contract and budget authority; or

(c) If a NOFA has already been published for that allocation area, process Proposals submitted in response thereto, but not selected, including those to which the deadline described in Section 881.203(c) (4) and (5) or does not apply; or

(d) Reallocate the unused contract and budget authority to another allocation area or to another local government for use in an NSA.

§ 881.309 Relocation for Section 8 substantial rehabilitation under subpart C.

(a) *Applicability of uniform act.* Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) applies to certain displacements occurring as a result of a PHA's acquisition or order to vacate real property, issued in connection with acquisition, for a project. HUD regulations governing displacements under the Uniform Act are set forth at 24 CFR Part 42. Any family, individual, business, farm or nonprofit organization occupying a property to be rehabilitated pursuant to this Subpart and who meets the definition of a "displaced person," as defined in 24 CFR 42.20(d), shall be provided relocation payments and assistance in accordance with 24 CFR part 42, as modified by paragraphs (c) through (g) for residential tenants of this section including the obligation placed on the local government.

(b) *Tenants displaced by private-owner or by PHA rehabilitation without acquisition.* Although the Uniform Act does not apply to the displacement of tenants as a result of acquisition by a private developer or as a result of rehabilitation by a PHA without acquisition for a Section 8 project, HUD has determined that any family, individual, business, farm, or nonpofit organization that is a tenant (not an owner-occupant) occupying a property to be rehabilitated pursuant to this Subpart on the date the Proposal is submitted to HUD (see §§ 881.305 and 881.307) and who is thereafter required to move, shall be eligible for relocation payments and assistance to be determined on the same basis as provided by 24 CFR Part 42, as modified by paragraphs (c) through (h) of this section, as if the tenant were a "displaced person" within the meaning of the Uniform Act. For purposes of the regulations at 24 CFR Part 42, the local government's transmittal of the Proposal to HUD shall be deemed to be the "initiation of negotiations."

(c) *Preliminary notice to each residential tenant.* No later than 30 days after the transmittal of any Proposal to HUD, the local government shall issue to each residential tenant occupying the property a written notice which:

(1) Informs the tenant that a Proposal for assistance under this Subpart has been transmitted to HUD and the date thereof;

(2) Insofar as possbile, informs the tenant whether permanent relocation will be required if the Proposal is approved;

(3) States that if the tenant moves after the date the Proposal was submitted to HUD for any reason, except after being issued a notice of displacement as described in paragraph (e) of this section, the tenant will not be entitled to relocation payments or other assistance provided under/or determined in accordance with 24 CFR Part 42, as modified by this section;

(4) Indicates that as soon as practical, but not later than 60 days after the HUD notification of the approval of the Proposal, the tenant will receive an appropriate notice as specified under paragraph (d) or (e) of this section. The provisions of the notices that are referred to shall be generally described;

(5) Generally describes the relocation payments and other assistance for which the tenant would be eligible, if required to relocate; and

(6) Informs the tenant of the applicable policies contained in paragraph (f)(1) and (f)(2) of this section.

(d) *Notice of Right to Continue in Occupancy.* No later than 60 days after the HUD notification of the approval of the Proposal the local government shall furnish each residential tenant who will not be displaced, a written notice of the tenant's right to continue in occupancy. The notice shall contain the following conditions:

(1) The tenant shall have the right to lease and occupy a decent, safe, and sanitary dwelling which is either the current dwelling or a comparable dwelling located within the same building or nearby building located on the same site, for a continuous period of at least four years. The four-year period shall begin on the date of HUD notification of the approval of the Proposal, or the date the dwelling is placed in decent, safe, and sanitary condition, or the termination date of any required temporary relocation, whichever is later;

(2) If the tenant is an "eligible" family as defined in Section 881.102 and 24 CFR Part 812, the amount of rent payable by the tenant shall be determined in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided pursuant to Section 881. If the tenant does not qualify as an eligible family as defined in Section 881.102 and 24 CFR Part 812, the amount payable by the tenant for rent and utilities and other services shall not exceed 25 percent of monthly income, which income shall be calculated in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided by the local government.

(3) The tenant shall not be required to move from the dwelling units other than for cause unless the move is necessary to permit rehabilitation or demolition. If a move is required:

(i) Not more than one temporary relocation by the tenant shall be required;

(ii) The temporary relocation, if any, shall not exceed twelve months in duration;

(iii) A decent, safe, and sanitary dwelling shall be available to the tenant for the period of any temporary relocation; and

(iv) The local government shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing costs, incurred by the tenant in connection with the move, any temporary relocation, or both.

(4) If the tenant is required to vacate the dwelling during the four-year period for any reason other than for cause, or if any of the commitments to the tenant under this notice are not met, the tenant shall automatically be deemed to have been issued a notice of displacement as described in paragraph (e) of this section and to be entitled to relocation payments and other relocation assistance available to displaced persons provided under in 4 CFR Part 42, as modified by this section.

(e) *Notice of Displacement.* Not later than 60 days after the HUD notification of the approval of the Proposal, the local government shall issue a written notice of displacement to each residential tenant to be displaced. The notice shall state that if the tenant moves or moves personal property from the property on or after the date of HUD notification of approval of the Proposal, the tenant will be entitled to certain relocation payments and other assistance which shall be described, including the maximum allowable dollar amount or range of each payment for which the tenant will apparently be eligible, the conditions of eligibility, and the procedures for obtaining the payment(s).

(f) *Automatic Notice of Displacement.* (1) If a tenant is not issued a preliminary notice as described in paragraph (c) of this section within 30 days after the transmittal of the Proposal to HUD, the tenant shall be deemed to have been issued a notice of displacement effective 31 days after the transmittal of the Proposal to HUD, if such Proposal is later approved by HUD. However, if the local government later issues a preliminary notice to a tenant who has not yet moved and agrees to reimburse the tenant for any expenses incurred to satisfy any binding contractual relocation obligations entered into during the period in which the notice of displacement was in effect, such automatic notice of displacement is cancelled.

(2) If a tenant is not issued a written notice of displacement or a notice of right to continue in occupancy within 60 days after the date of the HUD notification of the approval of the Proposal, the tenant shall be deemed to have been issued a notice of displacement effective on the date of the HUD notification of the approval of the Proposal.

(g) *Tenants Continuing in Occupancy.* The local government shall take such steps as may be necessary to insure that no tenants who continue in occupancy under the provisions of this section are subjected to an unreasonable change in the character of their immediate environment without being given the opportunity to move and qualify for relocation assistance as a displaced person. For example, an elderly tenant shall not be subjected without alternatives to a sharp increase in the number of children occupying nearby units.

(h) *Section 8 Assistance to Tenants Displaced by Private-Owner.* If a residential tenant who has been displaced by an Owner pusuant to paragraph (b) of this section has voluntarily selected a replacement rental dwelling unit, the local government shall provide a rental assistance payment as described in 24 CFR Part 42, unless a PHA provides a Certificate of Family Participation under the Section 8 Housing Assistance Payments Program Existing Housing 24 CFR Part 882. The latter can only occur when the displaced famiy or individual is eligible to participate in that program, the replacement rental dwelling unit meets the requirements of that program, and the landlord of the replacement rental dwelling unit is willing to participate in that program.

(i) *Nonresidential tenants.* The modifications in paragraphs (c) through (h) of this section do not apply to the displacement of any business, farm, or nonprofit organization who has been displaced as a result of an action described in paragraph (a) of this section. Such businesses, farms, or nonprofit organizations shall be provided relocation payments and other assistance in accordance with the regulations of 24 CFR Part 42 and the policies and procedures contained in HUD Handbook 1371.1 REV, Relocation Policies and Procedures.

(j) *Manner of Notices.* Any notice required under this section shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

(k) *Responsibility for relocation payments and assistance.* The local government is responsible for providing the relocation payments and assistance described in this section from funds other than those provided under these special procedures.

Issued at Washington, D.C., January 25, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

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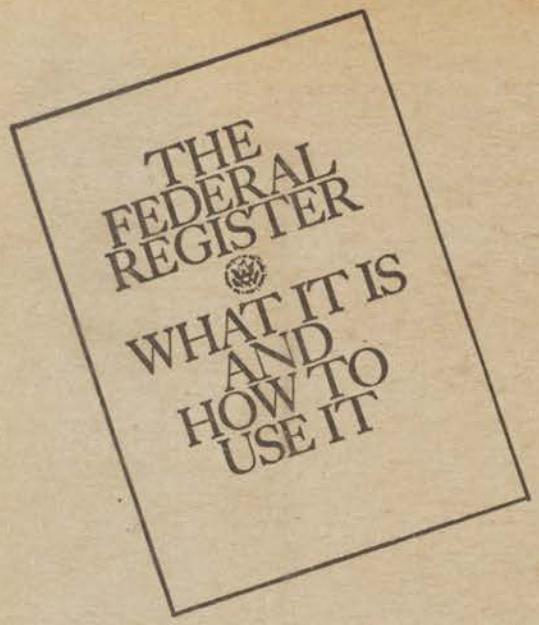

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