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Registered Federal Products

TUESDAY, MARCH 14, 1978



highlights

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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
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
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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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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 8638..... Pub. L. 95-242
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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.

[3410-05]

Title 7—Agriculture

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

SUBCHAPTER C—SPECIAL PROGRAMS

PART 760—INDEMNITY PAYMENT PROGRAMS

Subpart—Dairy Indemnity Payment Program (1977-81)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the Dairy Indemnity Payment Program Regulations to incorporate provisions of the Food and Agriculture Act of 1977 (September 29, 1977, Pub. L. 95-113, 91 Stat. 913). The objective of the program is to make indemnity payments to dairy farmers and manufacturers who, through no fault of their own, are required to remove their milk and dairy products from the commercial market because such products contain harmful residues. Prior legislation covered only contamination by pesticides. The new legislation extends the coverage of the program for dairy farmers to include residues of chemicals or toxic substances and contamination by nuclear radiation or fallout.

EFFECTIVE DATE: March 14, 1978.

ADDRESSES: Emergency and Indemnity Payments Division, ASCS, USDA, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Gerald Schiermeyer (ASCS), telephone 202-447-4428.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977 extended the Dairy Indemnity Payment Program through September 30, 1981. The recent legislation also expanded the coverage to include payments to dairy farmers whose milk was destroyed because it contained harmful residues of chemicals or toxic substances, or because of the presence

of products of nuclear radiation or fallout. The expanded coverage was effective October 1, 1977, and does not include manufacturers of dairy products.

The proposed rules for administering the Dairy Indemnity Payment Program were published in the FEDERAL REGISTER on January 13, 1978, (43 FR 1958), and interested persons were invited to submit comments on the proposal by January 30, 1978.

Four written comments were received, all of which were favorable to the proposed rule. The only comment concerning a significant change was a suggestion to revise the definition for "Nuclear Radiation or Fallout." As originally defined the regulations would limit coverage to contamination from an atomic blast. It was suggested that this definition be expanded to include contamination as the result of leakage from a nuclear power plant or utility.

Having considered this recommendation and the language of the statute, it has been determined that the benefits of the program should not be limited according to any particular source of nuclear contamination. Accordingly, § 760.2(h) is changed as follows:

(h) "Nuclear Radiation or Fallout" means contamination from nuclear radiation or fallout from any source. It has also been determined that the provisions of § 760.31 concerning assignments should be made more explicit in order to prevent any attempted assignment from becoming effective.

Section 760.31 is changed to read as follows: No assignment shall be made of any indemnity payment due or to come due under the regulations in this subpart. Any assignment or attempted assignment of any indemnity payment due or to come due under this subpart shall be null and void.

Accordingly, with these changes, 7 CFR Part 760, Subpart—Dairy Indemnity Payment Program is revised as set forth below.

Signed at Washington, D.C., on March 3, 1978.

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

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- 760.20 Payments to manufacturers of dairy products.
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GENERAL PROVISIONS

- 760.24 Limitation of authority.
- 760.25 Estates and trusts; minors.
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AUTHORITY: Sec. 1, 2, 3, Pub. L. 90-484, 82 Stat. 750, as amended; Sec. 204, Pub. L. 91-524, 84 Stat. 1361; Sec. 5, Pub. L. 93-86, 87 Stat. 223; Sec. 205, Pub. L. 95-113, 91 Stat. 920. (7 U.S.C. 450 j, k, l).

Subpart—Dairy Indemnity Payment Programs

PROGRAM OPERATIONS

§ 760.1 Administration.

This indemnity payment program will be carried out by ASCS under the direction and supervision of the Deputy Administrator. In the field, the program will be administered by the State and county committees.

§ 760.2 Definitions.

For purposes of this subject, the following terms shall have the meanings specified:

(a) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the U.S. Department of Agriculture to whom he has delegated, or to whom he may hereafter delegate, authority to act in his stead.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(c) "Deputy Administrator" means the Deputy Administrator, State and County Operations, ASCS.

(d) "State committee" means the Agricultural Stabilization and Conservation State committee.

(e) "County committee" means the Agricultural Stabilization and Conservation county committee.

(f) "Pesticide" means an economic poison which was registered pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135-135k), and approved for use by the Federal Government.

(g) "Chemicals or Toxic Substances" means any chemical substance or mixture as defined in the Toxic Substances Control Act (15 U.S.C. 2602).

(h) "Nuclear Radiation or Fallout" means contamination from nuclear radiation or fallout from any source.

(i) "Violating Substance" means one or more of the items defined in § g, and h above.

(j) "Public agency" means any Federal, State or local public regulatory agency.

(k) "Affected farmer" means a person who produces whole milk which is removed from the commercial market any time from:

(1) January 1, 1964, to September 30, 1981, pursuant to the direction of a public agency because of the detection of pesticide residues in such whole milk by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency, or

(2) October 1, 1977, to September 30, 1981, pursuant to the direction of a public agency because of the detection of other residues of chemicals or toxic substances residues, or contamination from nuclear radiation or fallout in such whole milk by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

(l) "Affected manufacturer" means a person who manufactures dairy products which are removed from the commercial market any time from November 30, 1970, to September 30, 1981, pursuant to the direction of a public agency because of the detection of pesticide residue in such dairy products by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

(m) "Milk handler" means the marketing agency to or through which the affected dairy farmer marketed his whole milk at the time he was directed by the public agency to remove his whole milk from the commercial market.

(n) "Person" means an individual, partnership, association, corporation, trust, estate, or other legal entity.

(o) "Application period" means any period beginning not earlier than Jan-

uary 1, 1964, and ending not later than September 30, 1981, during which an affected farmer's whole milk is removed from the commercial market pursuant to direction of a public agency for a reason specified in paragraph (k) of this section and for which application for payment is made.

(p) "Pay period" means (1) in the case of an affected farmer who markets his whole milk through a milk handler, the period used by the milk handler in settling with the affected farmer for his whole milk, usually bi-weekly or monthly, or (2) in the case of an affected farmer whose commercial market consists of direct retail sales to consumers, a calendar month.

(q) "Whole milk" means milk as it is produced by cows.

(r) "Commercial market" means (1) the market to which the affected farmer normally delivers his whole milk and from which it was removed because of detection therein of a residue of a violating substance(s) or (2) the market to which the affected manufacturer normally delivers his dairy products and from which they were removed because of detection therein of pesticide residue.

(s) "Removed from the commercial market" means (1) produced and destroyed or fed to livestock, (2) produced and delivered to a handler who destroyed it or disposed of it as salvage (such as separating whole milk, destroying the fat, and drying the skim milk), or (3) produced and otherwise diverted to other than the commercial market.

(t) "Payment subject to refund" means a payment which is made by a milk handler to an affected farmer, and which such farmer is obligated to refund to the milk handler.

PAYMENTS TO DAIRY FARMERS FOR MILK

§ 760.3 Indemnity payments on milk.

An indemnity payment for milk will be made to an affected farmer who is determined by the county committee to be in compliance with all the terms and conditions of this subpart in the amount of the fair market value of his normal marketings for the application period, as determined in accordance with §§ 760.4 and 760.5, less (a) any amount he received for whole milk marketed during the applications period, and (b) any payment not subject to refund which he received from a milk handler with respect to whole milk removed from the commercial market during the application period.

§ 760.4 Normal marketings of milk.

(a) The county committee shall determine the affected farmer's normal marketings which, for the purposes of this subpart, shall be the sum of the quantities of whole milk which such

farmer would have sold in the commercial market in each of the pay periods in the application period but for the removal of his whole milk from the commercial market because of the detection of a residue of a violating substance.

(b) Determination of normal marketings for each pay period shall be based upon: (1) The actual quantity of milk produced and removed from the market provided such quantity does not exceed the quantity estimated under paragraphs b(2) or b(3) of this section, (2) If the affected farmer or another person marketed whole milk from the farm during the period in the previous year equivalent to the pay period, the marketings of whole milk from the farm during such equivalent period, or (3) If the affected farmer or another person did not market whole milk from the farm during the period in the previous year equivalent to the pay period, the average of the affected farmer's marketings of whole milk from the farm per pay period during the three months immediately prior to removal of his whole milk from the commercial market.

(c) The base for normal marketings determined (1) under paragraph (b)(2) of this section shall be adjusted to reflect any change in the rate of the affected farmer's whole milk production from the production of the previous year due to factors such as changes in herd size both before and after removal of whole milk from the commercial market, and changes in management practices before such removal, or (2) under paragraph (b)(3) of this section shall be adjusted to reflect normal changes in the affected farmer's whole milk production during the pay period due to seasonal factors affecting production and changes in herd size.

(d) If only a portion of a pay period falls within the application period, normal marketings for such pay period shall be reduced so that they represent only that part of such pay period which is within the application period.

§ 760.5 Fair market value of milk.

(a) The county committee shall determine the fair market value of the affected farmer's normal marketings, which, for the purposes of this subpart, shall be the sum of the net proceeds such farmer would have received for his normal marketings in each of the pay periods in the application period.

(b) The county committee shall determine the net proceeds the affected farmer would have received in each of the pay periods in the application period (1) in the case of an affected farmer who markets his whole milk through a milk handler, by multiplying the affected farmer's normal mar-

ketings for each such pay period by the average net price per hundred-weight of whole milk paid during the pay period by such farmer's milk handler in the same area for whole milk similar in quality and butterfat test to that marketed by the affected farmer in the base period used to determine his normal marketings, or (2) in the case of an affected farmer whose commercial market consists of direct retail sales to consumers, by multiplying the affected farmer's normal marketings for each such pay period by the average net price per hundredweight of whole milk, as determined by the county committee, which other producers in the same area who marketed their whole milk through milk handlers received for whole milk similar in quality and butterfat test to that marketed by the affected farmer during the base period used to determine his normal marketings.

(c) In determining the net price for whole milk, the county committee shall deduct from the gross price therefor any transportation, administrative, and other costs of marketing which it determines are normally incurred by the affected farmer but which were not incurred because of the removal of his whole milk from the commercial market.

§ 760.6 Information to be furnished.

The affected farmer shall furnish to the county committee complete and accurate information sufficient to enable it to make the determinations required in §§ 760.4 and 760.5. Such information shall include, but is not limited to:

(a) A copy of the notice from, or other evidence of action by, the public agency which resulted in the removal of the affected farmer's whole milk from the commercial market.

(b) The specific name of the violating substance causing the removal of his whole milk from the commercial market, if not included in the notice or other evidence of action furnished under paragraph (a) of this section.

(c) A record of the quantity and butterfat test of whole milk which he produced on his farm and marketed, (1) if the affected farmer is covered by the provisions of § 760.4(b) (1) and (2), during each pay period during the 15 months immediately prior to the time the whole milk was removed from the commercial market, or (2) if the affected farmer is covered by the provision of § 760.4(b)(3), during the three months immediately prior to the removal of his whole milk from the commercial market. This record shall be either a certified statement furnished by the affected farmer's milk handler, or such other evidence as the county committee determines accurately establishes the butterfat test and quantity of whole milk produced and marketed during such periods.

(d) The number of cows milked during each pay period in the application period, and during the pay periods within the three-month period immediately prior to the application period.

(e) If the affected farmer markets his whole milk through a milk handler, a statement from the milk handler showing, for each pay period in the application period, the average price per hundred-weight of whole milk similar in quality to that marketed by the affected farmer during the base period used to determine his normal marketings. If the milk handler has information as to the transportation, administrative, and other costs of marketing which are normally incurred by producers who market through the milk handler but which the affected farmer did not incur because of removal of his whole milk from the market, the average price stated by the milk handler shall be the average gross price paid producers less any such costs. If the milk handler does not have such information, the affected farmer shall furnish a statement setting forth such costs, if any.

(f) The amount of proceeds, if any, received by the affected farmer from the marketing of whole milk produced during the application period.

(g) The amount of any payments not subject to refund made to the affected farmer by the milk handler with respect to the whole milk produced during the application period and remove from the commercial market.

(h) To the extent that such information is available to the affected farmer, the name of any pesticide, chemical, or toxic substance used on the farm within 24 months prior to the application period, the use made of the pesticide, chemical, or toxic substance, the approximate date of such use, and the name of the manufacturer and the registration number, if any, on the label on the container of the pesticide, chemical, or toxic substance.

(i) To the extent possible, the source of the pesticide, chemical, or toxic substance that caused the contamination of the whole milk, and the results of any laboratory tests on the feed supply.

(j) Such other information as the county committee may request to enable the committee to make the determinations required in this subpart.

§ 760.7 Other requirements for affected farmers.

An indemnity payment for milk will be made under this subpart to an affected farmer only under the following conditions:

(a) If the pesticide, chemical, or toxic substance, contaminating the milk was used by the affected farmer, he established each of the following:

(1) That the pesticide, chemical or toxic substance, when used, was registered (if applicable) and approved for use as provided in § 760.2(f);

(2) That the contamination of his milk was not the result of his failure to use the pesticide, chemical, or toxic substance, according to the directions and limitations stated on the label;

(3) That the contamination of his milk was not otherwise his fault.

(b) If the pesticide, chemical, or toxic substance contaminating the milk was not used by the affected farmer, he establishes each of the following:

(1) He did not know or have reason to believe that any feed which he purchased and which contaminated his milk contained a harmful residue of a pesticide, a chemical, or a toxic substance or was contaminated by nuclear radiation or fallout.

(2) None of the milk was produced by dairy cattle which he knew, or had reason to know at the time he acquired them, were contaminated with residues of pesticides, chemicals or toxic substances, or by nuclear radiation or fallout.

(3) The contamination of his milk was not otherwise his fault.

(c) The affected farmer has adopted recommended practices for eliminating residues of pesticides, chemicals, or toxic substances or contamination from nuclear radiation or fallout from his milk as soon as practicable following the discovery of the initial contamination.

§ 760.8 Application for payments for milk.

The affected farmer or his legal representative, as provided in §§ 760.25 and 760.29, must sign and file an application for payment on a form which is approved for that purpose by the Deputy Administrator. The form must be filed with the county ASCS office for the county where the farm headquarters are located no later than December 31, 1981, or such later date as the Deputy Administrator may specify. The application for payment shall cover application periods of at least 28 days, except that, if the entire application period, or the last application period, is shorter than 28 days, applications for payment may be filed for such shorter period. The application for payment shall be accompanied by the information required by § 760.6 as well as any other information which will enable the county committee to determine whether the making of an indemnity payment is precluded for any of the reasons set forth in § 760.7. Such information shall be submitted on forms approved for the purpose by the Deputy Administrator.

§ 760.9 Other legal recourse.

No indemnity payment may be made for contamination resulting from resi-

dues of chemicals or toxic substances if the Deputy Administrator determines within thirty days after the application for payment that other legal recourse, is available to the farmer. Notwithstanding such a determination, the Deputy Administrator may reopen the case at a later date and make a new determination on the merits of the case as may be just and equitable.

PAYMENTS TO MANUFACTURERS AFFECTED BY PESTICIDES

§ 760.20 Payments to manufacturers of dairy products.

An indemnity payment will be made to the affected manufacturer who is determined by the Deputy Administrator to be in compliance with all the terms and conditions of this subpart in the amount of the fair market value of the product removed from the commercial market because of pesticide residues, less any amount the manufacturer receives for the product in the form of salvage.

NOTE.—Manufacturers are not eligible for payment when dairy products are contaminated by chemicals, toxic substances (other than pesticides) or nuclear radiation or fallout.

§ 760.21 Application for payments by manufacturers.

The affected manufacturer, or his legal representatives, shall file an application for payment with the Deputy Administrator, ASCS, Washington, D.C., through the county office serving the county where the contaminated product is located. The application for payment may be in the form of a letter or memorandum. Such letter or memorandum, however, must be accompanied by acceptable documentation to support such application for payment.

§ 760.22 Information to be furnished by manufacturer.

The affected manufacturer shall furnish the Deputy Administrator, through the county committee, complete and accurate information sufficient to enable him to make the determination as to the manufacturer's eligibility to receive an indemnity payment. Such information shall include, but is not limited to:

(a) A copy of the notice or other evidence of action by the public agency which resulted in the product being removed from the commercial market.

(b) The name of the pesticide causing the removal of the product from the commercial market and, to the extent possible, the source of the pesticide.

(c) A record of the quantity of milk or butterfat used to produce the product for which an indemnity payment is requested.

(d) The identity of any pesticide used by the affected manufacturer.

(e) Such other information as the Deputy Administrator may request to enable him to make the determinations required in this subpart.

§ 760.23 Other requirements for manufacturers.

An indemnity payment will be made under this subpart to an affected manufacturer only under the following conditions:

(a) If the pesticide contaminating the product was used by the affected manufacturer, he establishes each of the following: (1) That the pesticide, when used, was registered and recommended for such use as provided in § 760.2(f); (2) that the contamination of his product was not the result of his failure to use the pesticide in accordance with the directions and limitations stated on the label of the pesticide; and (3) that the contamination of his product was not otherwise his fault.

(b) If the pesticide contaminating the product was not used by the affected manufacturer: (1) He did not know or have reason to believe that the milk from which the product was processed contained a harmful level of pesticide residue, and (2) the contamination of his product was not otherwise his fault.

GENERAL PROVISIONS

§ 760.24 Limitation of authority.

(a) County executive directors and State and county committees do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(b) The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee when such action has not been taken by the county committee. The State committee may also: (1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the regulations in this subpart.

(c) No delegation herein to a State or county committee shall preclude the Deputy Administrator or his designee from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee.

§ 760.25 Estates and trusts; minors.

(a) A receiver of an insolvent debtor's estate and the trustee of a trust estate shall, for the purpose of this subpart, be considered to represent an

insolvent affected farmer or manufacturer and the beneficiaries of a trust, respectively, and the production of the receiver or trustee shall be considered to be the production of the person or manufacturer he represents. Program documents executed by any such person will be accepted only if they are legally valid and such person has the authority to sign the applicable documents.

(b) An affected dairy farmer or manufacturer who is a minor shall be eligible for indemnity payments only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable program documents are signed by the guardian; or (3) a bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had he been an adult.

§ 760.26 Appeals.

The appeal regulations issued by the Administrator, ASCS, Part 780 of this chapter, shall be applicable to appeals by dairy farmers or manufacturers from determinations made pursuant to the regulations in this subpart.

§ 760.27 Setoffs.

(a) If the affected farmer or manufacturer is indebted to any agency of the United States and such indebtedness is listed on the county debt record, indemnity payments due the affected farmer or manufacturer under the regulations in this part shall be applied, as provided in the Secretary's setoff regulations, Part 13 of this title, to such indebtedness.

(b) Compliance with the provisions of this section shall not deprive the affected farmer or manufacturer of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 760.28 Overdisbursement.

If the indemnity payment disbursed to an affected farmer or to a manufacturer exceeds the amount authorized under the regulations in this subpart, the affected farmer or manufacturer shall be personally liable for repayment of the amount of such excess.

§ 760.29 Death, incompetency, or disappearance.

In the case of the death, incompetency, or disappearance of any affected farmer or manufacturer who is entitled to an indemnity payment, such payment may be made to the person or persons specified in the regulations contained in Part 707 of this chapter. The person requesting such payment shall file Form ASCS-325, "Applica-

tion for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," as provided in that part.

§ 760.30 Records and inspection thereof.

(a) The affected farmer, as well as his milk handler and any other person who furnished information to such farmer or to the county committee for the purpose of enabling such farmer to receive a milk indemnity payment under this subpart, shall maintain any existing books, records, and accounts supporting any information so furnished for 3 years following the end of the year during which the application for payment was filed. The affected farmer, his milk handler, and any other person who furnishes such information to the affected farmer or to the county committee shall permit authorized representatives of the Department of Agriculture and the General Accounting Office, during regular business hours, to inspect, examine, and make copies of such books, records, and accounts.

(b) The affected manufacturer or any other person who furnishes information to the Deputy Administrator for the purposes of enabling such manufacturer to receive an indemnity payment under this subpart shall maintain any books, records, and accounts supporting any information so furnished for 3 years following the end of the year during which the application for payment was filed. The affected manufacturer or any other person who furnishes such information to the Deputy Administrator shall permit authorized representatives of the Department of Agriculture and the General Accounting Office, during regular business hours, to inspect, examine, and make copies of such books, records, and accounts.

§ 760.31 Assignment.

No assignment shall be made of any indemnity payment due or to come due under the regulations in this subpart. Any assignment or attempted assignment of any indemnity payment due or to come due under this subpart shall be null and void.

§ 760.32 Instructions and forms.

The Deputy Administrator shall cause to be prepared such forms and instructions as are necessary for carrying out the regulations in this subpart. Affected farmers and manufacturers may obtain information necessary to make application for a dairy indemnity payment from the county ASCS office. The following forms may be obtained at the county ASCS office: ASCS-373—Application for Milk Indemnity Payment, ASCS-374—Marketing and Payment Report, Milk Indemnity Payment Program.

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.

[FR Doc. 78-6464 Filed 3-13-78; 8:45 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 2852—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Regulations Governing Inspection and Certification of Processed Fruits and Vegetables

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to provide sampling plans for inspection by attributes under both lot inspection and on-line inspection situations. This rule is being adopted to provide uniform statistical sampling acceptance procedures for all U.S. standards for processed fruits and vegetables which utilize statistical sampling procedures. The effect of this rule will be to provide a master publication of all statistical sampling plans referenced in attributes standards, for use by the public and government agencies.

EFFECTIVE DATE: March 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William J. Franks, Acting Director, Statistics and Technical Support Staff, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7081.

SUPPLEMENTARY INFORMATION: The sampling plans currently in the Regulations Governing Inspection (7 CFR 2852.1) were adopted July 1, 1957. At that time, all of the grade standards for processed fruits and vegetables used a score point system—based on a scale of 0 to 100 points—to assign a grade to each sample unit. This system, which is still used extensively, was designed for the inspection of processed fruits and vegetables that have already been packaged and stored in warehouses (lot inspection).

The processing of fruits and vegetables has changed greatly in recent years. Much of the processing is done

in large, high-volume, semi-automated processing plants. To measure the quality of the product processed in these large plants, substantial inspection is done ahead of final packaging (on-line inspection). This system alerts the food processors to changes in quality so that lower quality food can be identified and isolated while it is being processed.

One of the advantages of the on-line inspection method is the reduction in the amount of food wasted. When inspections are performed after packaging, the food is usually destroyed through the act of opening the container. Other advantages include direct reading acceptance numbers for defects, elimination of percentage calculations, and more objective classification of defects.

Recently, several U.S. grade standards have been revised to incorporate on-line statistical sampling procedures based on inspection by attributes. Supplementary statistical sampling procedures have also been developed that will permit the use of inspection by attributes on lots of processed fruits and vegetables from established warehouse lots.

Suitable manuals giving detailed instructions in the applications and uses of these new statistical sampling procedures will be available to interested parties from:

Chief, Processed Products Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250.

In all currently effective attributes standards for processed fruits and vegetables, the sampling plans have been published in each standard. Since many of the sampling plans are identical, this practice has required repetitive publication of these plans in the FEDERAL REGISTER. Much of this material was published in the format of columnar tables. It required extra time and expense to prepare, publish and proofread these tables.

This agency makes available to the public, upon request, single copies of each U.S. standard for processed fruits and vegetables. Last year—fiscal year 1977—approximately 28,000 copies of these standards were distributed exclusive of those for internal use.

A master reference to all sampling plans used in attributes standards would eliminate repetitive publication of these tables in the FEDERAL REGISTER, reduce the volume of material in each of these standards and lessen the time required to prepare standards for publication in the FEDERAL REGISTER. It would also reduce the costs of publishing material.

Part 2852 is revised by adding three new sections—§§ 2852.38a, 2852.38b, and 2852.38c—which read as follows:

§ 2852.38a Definitions of terms applicable to statistical sampling.

(a) Terms applicable to both on-line inspection and lot inspection.

(1) *Acceptable Quality Level (AQL)*. The maximum percent of defective units of product or the maximum number of defects per hundred units of product which are acceptable as a process average. At the AQL's contained in the statistical sampling plans of this subpart, production has a probability of acceptance ("Pa") of approximately 95 percent.

(2) *Acceptance sampling*. Sampling inspection in which decisions are made to accept or reject product.

(3) *Attributes*. A method of measurement whereby units of product are examined for the presence or absence of specified characteristics in each unit in the sample.

(4) *Defect*. Any nonconformance of a unit of product from specified requirements of a single quality characteristic. Defects are classified as "minor," "major," "severe" or "critical" depending upon the severity and undesirability of the defect.

(5) *Defective*. A unit of product that has one or more defects.

(6) *Inspection by attributes*. Inspection whereby a unit of product is classified as defective or nondefective or the number or defects in the unit of product is counted.

(7) *Standard sample unit size*. A specified amount of product to be used for inspection.

(b) Terms applicable to on-line inspection only.

(1) *Basic inspection period*. A specified period of consecutive production designated for on-line inspection.

(2) *Cumulative Sum Sampling (CuSum) Plan*. An on-line sampling plan that accumulates the number of defects (or defectives), which exceed the sample unit tolerance ("T"), in a series of consecutive samples. Terms specific to the CuSum sampling plan are:

(i) *Acceptance limit ("L")*. The maximum accumulation of defects (or defectives) allowed to exceed the sample unit tolerance ("T") in any sample unit or consecutive group of sample units.

(ii) *CuSum value*. The accumulated number of defects (or defectives) that exceed the sample unit tolerance ("T").

(iii) *Sample unit tolerance ("T")*. The allowable number of defects (or defectives) in any sample unit.

(iv) *Starting value ("S")*. The initial CuSum value used to begin a CuSum sampling plan.

(3) *On-line sampling inspection*. The random selection and subsequent inspection of sample units from a production line.

(4) *Probability of acceptance ("Pa")*. The probability that a portion of pro-

duction, with a given level of quality, will be accepted. In on-line sampling inspection, the probability of acceptance of any portion of production depends on the sample results obtained from the preceding portions. The probability of acceptance values associated with these procedures are the values which would be expected if a large number of sample units are to be inspected. For the CuSum plans referenced in these procedures, the probability of acceptance at the Acceptable Quality Level (AQL) is approximately 95 percent. The starting value ("S") associated with each CuSum plan helps to make the probability of acceptance of the first portions of production of a basic inspection period as close as possible to 95 percent.

(c) Terms applicable to lot inspection only.

(1) *Acceptance number*. The largest number of defects (or defectives) in the sample that will permit acceptance of the inspection lot.

(2) *Inspection lot*. Any number of containers of the same size and type which contain a processed product of the same type and style, manufactured or processed under essentially the same conditions, offered for inspection and acceptance at one time.

(3) *Probability of acceptance ("Pa")*. The probability that an inspection lot, with a given level of quality, will be accepted.

§ 2852.38b Statistical sampling procedures for on-line inspection by attributes of processed fruits and vegetables.

(a) *General*. The Cumulative Sum Sampling Plan, hereinafter referred to as "CuSum," shall be used as the on-line sampling plan for attributes standards under the following conditions.

(1) The producer has designated the intended grade for the basic inspection period prior to the start of production.

(2) Inspection of the product shall be made during the basic inspection period at a point after which all product characteristics, subject to inspection, are fixed and will not be subject to change during final packaging.

(3) A shift to CuSum sampling plans from lot sampling plans during a basic inspection period is not permitted (or vice versa).

(b) *Sampling rate/frequency*. The minimum number of standard sample units to be drawn at random shall be determined by the applicable sampling procedure as approved by the Administrator.

(c) *Determining CuSum values*. At the beginning of the basic inspection period, the CuSum value is set equal to the starting value ("S") for the specified CuSum plan. The CuSum value is then determined for each consecutive sample unit as follows:

(1) Add the number of defects (or defectives) for the present sample unit

to the CuSum value of the previous sample unit.

(2) Subtract the sample unit tolerance ("T").

(3) The CuSum value is reset in the following situations. However, determine compliance with the designated grade (see (d) of this section) prior to resetting the CuSum value:

(i) Reset the CuSum value to zero (0) if the CuSum value is less than zero (0).

(ii) Reset the CuSum value to the acceptance limit ("L") if the CuSum value exceeds the acceptance limit ("L").

(d) *Determining compliance for a designated grade*. (1) A portion of production meets the designated grade if the CuSum value, calculated from the sample unit representing that portion, is equal to or less than the acceptance limit ("L") for all classes of defects.

(2) A portion of production fails the designated grade if the CuSum value, calculated from the sample unit representing that portion, exceeds the acceptance limit ("L") for one or more classes of defects.

(e) *Evaluation of production failing a designated grade*. Production failing a designated grade shall be reevaluated by procedures approved by the USDA.

(f) *Assigning a grade*. (1) All similarly identified (e.g., codes, subcodes, etc.) production will be assigned the same grade.

(2) The grade assigned to similarly identified production will be the lowest grade assigned to any portion of that similarly identified production.

(g) *Redesignation of producer's intended grade*. If the intended grade is redesignated during a basic inspection period, a new CuSum sampling plan shall be instituted for each class of defects (or defectives).

(h) *Cumulative Sum Sampling (CuSum) Plans for processed fruits and vegetables*. (1) Tables VI through X contain the CuSum sampling plans for each of five different standard sample unit sizes. The plans within each table are listed according to increasing values of Acceptable Quality Levels (AQL's).

(2) AQL values of 10.0 or less may be expressed either in "defects per hundred units" or in "percent defective units." The same sampling plans are used for both. Separate sampling plans must be used for AQL values greater than 10.0.

(3) These tables also provide the quality levels associated with 50 percent and 10 percent probabilities of acceptance for each of the plans. These quality levels are expressed in the same units as the corresponding AQL values.

(4) A separate CuSum sampling plan is chosen for each class of defects (or defectives) by first specifying the de-

sired AQL and then selecting the appropriate standard sample unit size. The quality levels associated with 50 percent and 10 percent probabilities of acceptance may be used as guides to help determine a suitable standard sample unit size.

TABLE VI.—CuSum sampling plans
[Standard sample unit size = 13]

AQL	S	T	L	Quality levels	
				Pa=50%	Pa=10%
Quality levels expressed as defects per 100 units or percent defective.					
0.65.....	0.3	0.1	0.9	5.3	17.7
1.0.....	.2	.2	.8	5.6	17.7
1.5.....	0	.5	0.5	7.7	19.2
2.2.....	.5	.5	1.5	8.2	19.2
4.0.....	.8	.8	2	9.7	19.6
5.0.....	0	1	1	14.4	30.2
6.5.....	1	1	2	14.7	30.2
8.5.....	1	1.5	2.5	17.4	31.3
10.0.....	1	1.8	2.6	18.8	32.0

Quality levels expressed as defects per 100 units only

12.5.....	1	2	3	23.5	41.4
15.0.....	1	2.5	3	26.1	42.8
20.0.....	2	3	4	32.2	52.1
25.0.....	1	4	3	40.3	62.3
33.0.....	1	5	4	48.9	72.3
40.0.....	2	6	5	57.1	82.1
50.0.....	1	8	4	73.3	101.2
65.0.....	2	10	5	89.9	120.0
85.0.....	1	13	5	113.9	147.6
100.0.....	2	15	6	130.4	165.7
150.0.....	2	22	7	188.5	227.9
250.0.....	4	35	11	291.2	340.6

Quality levels expressed as percent defective only

12.5.....	1	2	2	22.4	36.4
15.0.....	1	2.5	2.5	25.0	37.4
20.0.....	1	3	3	30.7	44.5
25.0.....	1	4	2	38.1	52.8
33.0.....	1	5	3	46.2	60.3
40.0.....	1	6	3	53.8	67.4
50.0.....	2	7	4	61.5	74.1

TABLE VII.—CuSum sampling plans
[Standard sample unit size = 25]

AQL	S	T	L	Quality levels	
				Pa= 50%	Pa= 10%
Quality levels expressed as defects per 100 units or percent defective					
0.4.....	0.3	0.1	0.9	2.8	9.2
0.65.....	.2	.2	.8	3.4	9.2
1.0.....	0	.5	.5	4.0	10.0
1.5.....	1	.5	2	4.3	10.0
2.5.....	0	1	1	7.5	15.7
4.0.....	.5	1.5	2	9.0	16.3
5.0.....	1.5	1.5	3	9.1	16.3
6.5.....	1	2	3	12.2	21.5
8.5.....	0	3	2	16.4	27.1
10.0.....	1	3	3	16.7	27.1

TABLE VII.—CuSum sampling plans—Continued
[Standard sample unit size = 25]

AQL	S	T	L	Quality levels	
				Pa=50%	Pa=510%
Quality levels expressed as defects per 100 units only					
12.5.....	1	4	3	21.0	32.4
15.0.....	1	5	3	25.2	37.6
20.0.....	1	6	4	29.7	42.7
25.0.....	1	8	3	37.7	52.7
33.0.....	1	10	4	46.5	62.4
40.0.....	2	12	5	55.1	72.0
50.0.....	2	14	7	63.9	81.5
65.0.....	3	18	8	80.7	100.1
85.0.....	4	23	10	101.8	123.1
100.0.....	4	27	10	118.3	141.2

Quality levels expressed as percent defective only

12.5.....	1	4	3	20.5	29.8
15.0.....	0	5	2	24.3	34.3
20.0.....	1	6	3	28.7	38.7
25.0.....	2	7	4	33.0	43.0
33.0.....	2	9	5	41.2	51.2
40.0.....	2	11	5	49.2	59.1
50.0.....	1	14	3	60.6	70.3

TABLE VIII.—CuSum sampling plans
[Standard sample unit size = 50]

AQL	S	T	L	Quality levels	
				Pa = 50%	Pa = 10%
Quality levels expressed as defects per 100 units or percent defective					
0.15.....	0.3	0.1	0.9	1.4	4.6
0.25.....	.2	.2	.8	1.5	4.6
0.4.....	0	.5	.5	2.0	5.0
0.65.....	.5	.5	1.5	2.1	5.0
1.0.....	.4	.8	1.6	2.5	5.1
1.5.....	1	1	2	3.8	7.9
2.5.....	1.5	1.5	3	4.6	8.1
4.0.....	1	2.5	3	6.8	11.1
5.0.....	1	3	3	9.3	13.6
6.5.....	1	4	3	10.5	16.2
8.5.....	1	5	4	12.7	18.8
10.0.....	1	6	4	14.9	21.4

Quality levels expressed as defects per 100 units only

12.5.....	1	8	3	18.9	26.3
15.0.....	1	9	4	21.1	28.8
20.0.....	2	12	5	27.5	36.0
25.0.....	2	14	7	31.9	40.7
33.0.....	3	18	9	40.4	50.0
40.0.....	3	22	9	48.7	59.3
50.0.....	4	27	10	59.1	70.6
65.0.....	4	35	11	75.7	88.5
85.0.....	5	45	14	96.5	110.7

Quality levels expressed as percent defective only

12.5.....	2	7	5	16.8	22.3
15.0.....	1	9	4	20.9	27.2
20.0.....	2	11	6	25.2	31.6
25.0.....	2	14	5	31.2	38.1
33.0.....	2	18	6	39.4	46.4
40.0.....	1	22	5	47.3	54.4
50.0.....	1	27	5	57.2	64.1

TABLE IX.—CuSum sampling plans
[Standard sample unit size = 100]

AQL	S	T	L	Quality levels	
				Pa=50%	Pa=510%
Quality levels expressed as defects per 100 units or percent defective					
0.1.....	0.3	0.1	0.9	0.7	2.3
0.15.....	.2	.2	.8	0.8	2.3
0.25.....	0	.5	.5	1.0	2.5
0.4.....	1	.5	2	1.1	2.5
0.65.....	0	1	1	1.9	3.9
1.0.....	.5	1.5	2	2.2	4.1
1.5.....	1	2	2	3.0	5.4
2.5.....	1	3	3	4.2	6.8
4.0.....	1	5	3	6.3	9.4
5.0.....	1	6	4	7.4	10.7
6.5.....	1	8	4	9.5	13.2
8.5.....	2	1.0	5	11.7	15.6
10.0.....	2	1.2	5	13.8	18.0

Quality levels expressed as defects per 100 units only

12.5.....	2	14	7	16.0	20.4
15.0.....	2	17	7	19.1	23.9
20.0.....	3	22	9	24.4	29.6
25.0.....	4	27	10	29.6	35.3
33.0.....	3	36	10	38.8	45.4
40.0.....	4	43	12	46.1	53.1
50.0.....	5	53	14	56.4	64.1

Quality levels expressed as percent defective only

12.5.....	2	14	6	15.8	19.7
15.0.....	2	17	6	18.9	23.0
20.0.....	2	22	7	24.0	28.5
25.0.....	3	27	8	29.2	33.8
33.0.....	3	35	9	37.3	42.1
40.0.....	4	42	10	44.4	49.2
50.0.....	4	52	10	54.3	59.1

TABLE X.—CuSum sampling plans
[Standard sample unit size = 200]

AQL	S	T	L	Quality levels	
				Pa=50%	Pa=10%
Quality levels expressed as defects per 100 units or percent defective					
0.04.....	0.3	0.1	0.9	0.3	1.2
0.065.....	0.2	0.2	0.8	0.4	1.2
0.1.....	0	0.5	0.5	0.5	1.3
0.15.....	0.4	0.8	0.8	0.6	1.3
0.25.....	0.4	0.8	1.6	0.6	1.3
0.4.....	1	1	2	1.0	2.0
0.65.....	1	1.8	2.6	1.2	2.1
1.0.....	1	2.5	3	1.7	2.8
1.5.....	1	4	3	2.6	4.1
2.5.....	1	6	4	3.7	5.3
4.0.....	1	10	4	5.8	7.8
5.0.....	2	12	5	6.9	9.0
6.5.....	2	15	6	8.5	10.8
8.5.....	3	19	8	10.6	13.1
10.0.....	3	22	9	12.2	14.8

Quality levels expressed as defects per 100 units only

12.5.....	4	27	10	14.8	17.7
15.0.....	3	33	9	17.8	21.0
20.0.....	4	43	12	23.1	26.6
25.0.....	5	53	14	28.2	32.1
33.0.....	5	70	15	36.9	41.3

TABLE XII.—Frozen or similarly processed fruits, vegetables, and products containing units of such size and character as to be readily separable—Continued

Container size group		Lot size (number of containers)	
Group 3: Any type of container over 2½ lb.	Convert to equivalent number of 2½ lb containers and use group 2.		
Lot inspection: Sample size (number of sample units).	6	13	21

TABLE XIII.—Canned, frozen, or otherwise processed fruits, vegetables, related products of a comminuted, fluid or homogeneous state

Container size group		Lot size (number of containers)	
Group 1: Any type of container of 1 lb or less.	18,000 or less	18,001 to 58,500	58,501 to 126,000
Group 2: Any type of container exceeding 1 lb but not exceeding 60 oz.	12,000 or less	12,001 to 39,000	39,001 to 84,000
Group 3: Any type of container exceeding 60 oz but not exceeding 10 lb.	6,000 or less	6,001 to 19,500	19,501 to 42,000
Group 4: Any type of container exceeding 10 lb.	Convert to equivalent number of 6-lb containers and use group 3.		
Lot inspection: Sample size (number of sample units).	6	13	21

TABLE XIV.—Dehydrated (low-moisture) fruits, and vegetables

Container size group		Lot size (number of containers)	
Group 1: Any type of container of 1 lb or less net weight.	7,200 or less	7,201 to 23,400	23,401 to 50,400
Group 2: Any type of container over 1 lb but not over 6 lb net weight.	2,400 or less	2,401 to 7,800	7,801 to 16,800
Group 3: Any type of container over 6 lb.	Convert to equivalent number of 6-lb containers and use group 2.		
Lot inspection: Sample size (number of sample units).	6	13	21

(c) *Determining compliance.*
 (1) An inspection lot meets the requirements of a quality grade if the number of defects (or defectives) is equal to or less than the acceptance numbers of all classes of defects.

(2) An inspection lot fails the requirements of a quality grade if the number of defects (or defectives) exceeds the acceptance number for one or more classes of defects.

(d) *Lot single sampling plans for processed fruits and vegetables.*
 (1) Tables XV through XIX contain the lot single sampling plans for each of five different standard sample unit sizes. The plans within each table are listed according to increasing values of Acceptable Quality Levels (AQL's).

(2) AQL values of 10.0 or less may be expressed either in "defects per hundred units" or in "percent defective units." The same sampling plans are used for both. Separate sampling plans must be used for AQL values greater than 10.0.

(3) A separate lot single sampling plan is chosen for each class of defects (or defectives) by first specifying the desired AQL, the appropriate standard sample unit size, and the number of sample units as specified in § 2852.38c (b) of this subpart. The quality levels associated with the Pa=50% and Pa=10% levels are given in the instructional manual.

§ 2852.38c Statistical sampling procedures for lot inspection of processed fruits and vegetables by attributes.

(a) *General.* Single sampling plans shall be used as the lot sampling plan for attributes standards under either of the following conditions:

(1) Sampling of the product shall be made during the production period. No grade will be assigned to individual sample units. One grade determination only will be made at the end of the production period for the inspection lot.

(2) Sampling of the product shall be made when the inspection lot is located in a warehouse, truck, railroad car, or other similar conveyance.

(b) *Sample size.* Samples shall be randomly selected from each inspection lot in the exact number of sample units indicated for the lot size in tables XI through XIV as applicable for canned, frozen, dried, or dehydrated fruits and vegetables.

TABLE X.—CuSum sampling plans—Continued

(Standard sample unit size = 200)

AQL	S	T	L	Quality levels
				Pa = 50%
				Pa = 10%

Quality levels expressed as defects per 100 units only

40.0	6	84	18	44.1	48.8
50.0	6	105	18	54.8	60.1

Quality levels expressed as percent defective only

12.5	3	27	9	14.7	17.3
15.0	4	32	10	17.3	20.0
20.0	4	43	9	22.8	25.9
25.0	4	53	11	27.9	31.1
33.0	5	69	13	36.1	39.4
40.0	5	83	14	43.1	46.5
50.0	5	103	14	53.1	56.5

TABLE XI.—Canned or similarly processed fruits, vegetables, and products containing units of such size and character as to be readily separable

Container size group		Lot size (number of containers)	
Group 1: Any type container of a 12,000 or less volume not exceeding that of a No. 303 size can.	12,001 to 39,000	39,001 to 84,000	84,001 to 145,000
Group 2: Any type of container of a 6,000 or less volume exceeding that of a No. 303 size can but not exceeding that of a No. 3 cylinder size can.	6,001 to 19,500	19,501 to 42,000	42,001 to 72,500
Group 3: Any type of container of a 3,000 or less volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can.	3,001 to 9,750	9,751 to 21,000	21,001 to 36,250
Group 4: Any type of container of a Convert to equivalent number of 6 lb net weight containers and use volume exceeding that of a No. 12 size can.			
Lot inspection: Sample size (number of sample units).	6	13	21

TABLE XII.—Frozen or similarly processed fruits, vegetables, and products containing units of such size and character as to be readily separable

Container size group		Lot size (number of containers)	
Group 1: Any type of container of 1 lb. or less net weight.	9,600 or less	9,601 to 31,200	31,201 to 67,200
Group 2: Any type of container over 1 lb but not over 2½ lb net weight.	4,800 or less	4,801 to 15,600	15,601 to 33,600

TABLE XV.—Lot single sampling plans
[Standard sample unit size=6]

	Number of sample units			
	6	13	21	29
Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL				
1.0.....	1	2	3	4
1.5.....	1	3	4	5
2.5.....	3	4	6	8
4.0.....	4	6	9	11
5.0.....	4	7	11	14
6.5.....	5	9	13	17
8.5.....	6	11	16	21
10.0.....	7	12	19	24

Quality levels expressed as defects per 100 units only				
12.5.....	8	15	22	29
15.0.....	9	17	26	35
20.0.....	12	22	33	44
25.0.....	14	27	41	54
33.0.....	18	34	52	70
40.0.....	21	40	62	83
50.0.....	25	49	76	102
65.0.....	31	62	97	131
85.0.....	40	80	124	168
100.0.....	46	92	144	196
150.0.....	66	135	212	288
250.0.....	105	218	344	469

Quality levels expressed as percent defective only				
12.5.....	8	15	22	29
15.0.....	9	17	25	34
20.0.....	11	21	33	43
25.0.....	13	26	39	53
33.0.....	16	32	50	67
40.0.....	19	38	59	80
50.0.....	23	46	72	98

TABLE XVI.—Lot single sampling plans
[Standard sample unit size=13]

	Number of sample units			
	6	13	21	29
Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL				
0.65.....	1	3	4	5
1.0.....	2	4	6	7
1.5.....	3	5	8	10
2.5.....	4	8	11	15
4.0.....	6	11	16	22
5.0.....	7	13	20	26
6.5.....	9	17	25	33
8.5.....	11	21	31	41

Quality levels expressed as defects per 100 units only				
10.0.....	12	24	36	48

Quality levels expressed as defects per 100 units only				
12.5.....	15	29	44	58
15.0.....	17	34	51	69
20.0.....	22	43	67	90
25.0.....	27	53	82	110
33.0.....	34	68	106	143
40.0.....	40	81	126	171
50.0.....	49	99	156	211
65.0.....	62	127	199	271
85.0.....	80	163	257	350
100.0.....	92	190	300	409

TABLE XVI.—Lot single sampling plans—
Continued

	Number of sample units			
	6	13	21	29
Quality levels expressed as percent defective only				
12.5.....	15	28	43	58
15.0.....	17	33	51	68
20.0.....	21	42	65	88
25.0.....	26	51	80	108
33.0.....	32	66	103	139
40.0.....	38	78	123	166
50.0.....	46	95	150	204

TABLE XVII.—Lot single sampling plans
[Standard sample unit size=25]

	Number of sample units			
	6	13	21	29
Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL				
0.4.....	2	3	5	6
0.65.....	3	5	7	8
1.0.....	4	6	9	12
1.5.....	5	9	13	16
2.5.....	7	13	19	25
4.0.....	10	19	29	38
5.0.....	12	23	35	46
6.5.....	15	29	44	58
8.5.....	19	36	56	74
10.0.....	21	42	64	86

Quality levels expressed as defects per 100 units only				
12.5.....	26	51	79	106
15.0.....	30	60	93	126
20.0.....	39	78	122	165
25.0.....	48	96	150	203
33.0.....	61	124	195	265
40.0.....	73	149	234	318
50.0.....	89	183	289	394
65.0.....	114	235	372	507

Quality levels expressed as percent defective only				
12.5.....	25	50	78	105
15.0.....	30	59	92	125
20.0.....	38	77	120	163
25.0.....	46	94	148	200
33.0.....	59	121	191	260
40.0.....	70	145	228	312
50.0.....	85	177	281	385

TABLE XVIII.—Lot single sampling plans
[Standard sample unit size=50]

	Number of sample units			
	6	13	21	29
Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL				
0.15.....	1	3	4	5
0.25.....	2	4	5	7
0.4.....	3	5	8	10

Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL				
0.65.....	4	8	11	15
1.0.....	6	11	16	21
1.5.....	8	15	22	29
2.5.....	12	23	35	46
4.0.....	18	34	53	70
5.0.....	21	42	64	86
6.5.....	27	53	82	110
8.5.....	34	67	105	142
10.0.....	39	78	122	165

TABLE XVIII.—Lot single sampling plans—
Continued

	Number of sample units			
	6	13	21	29
Quality levels expressed as defects per 100 units only				
12.5.....	48	96	150	203
15.0.....	56	114	178	242
20.0.....	73	149	234	318
25.0.....	89	183	289	394
33.0.....	115	239	377	514
40.0.....	138	287	454	620
50.0.....	170	355	563	769

Quality levels expressed as percent defective only				
12.5.....	47	95	149	202
15.0.....	55	112	177	240
20.0.....	71	147	231	315
25.0.....	87	181	286	390
33.0.....	112	234	372	508
40.0.....	134	281	446	611
50.0.....	164	346	552	756

TABLE XIX.—Lot single sampling plans
[Standard sample unit size=100]

	Number of sample units			
	6	13	21	29
Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL				
0.1.....	2	3	5	6
0.15.....	3	4	6	8
0.25.....	4	6	9	12
0.4.....	5	9	13	17
0.65.....	7	13	20	26
1.0.....	10	19	29	38
1.5.....	14	27	41	54
2.5.....	21	42	64	86
4.0.....	32	64	99	134
5.0.....	39	78	122	165
6.5.....	49	99	156	211
8.5.....	63	128	200	272
10.0.....	73	149	234	318

Quality levels expressed as defects per 100 units only				
12.5.....	89	183	289	394
15.0.....	105	218	344	469
20.0.....	138	287	454	620
25.0.....	170	355	563	769
33.0.....	221	463	736	1,008
40.0.....	266	558	888	1,216
50.0.....	329	692	1,103	1,513

Quality levels expressed as percent defective only				
12.5.....	88	182	287	392
15.0.....	104	216	342	467
20.0.....	136	284	450	615
25.0.....	167	351	558	763
33.0.....	217	457	728	999
40.0.....	260	549	877	1,203
50.0.....	320	680	1,088	1,494

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than March 29, 1978, (5 U.S.C. 553) are impracticable and unnecessary in that the revisions are (1) agency interpretative rules or pro-

cedures, (2) additional time is not required by users of the agency's inspection service to comply with, or implement, the revision, and (3) users of the agency's grading services already have, and are successfully using effective attributes standards.)

(Secs. 203, 205, 60 Stat. 1087, as amended; 1090, as amended, (7 U.S.C. 1622).)

Dated to become effective March 29, 1978.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 7, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-6480 Filed 3-13-78; 8:40 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DE- PARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTA- TION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Release of Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Texas County in Oklahoma from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the area quarantined. No areas in the State of Oklahoma remain under quarantine.

EFFECTIVE DATE: March 8, 1978.

FOR FURTHER INFORMATION
CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, room 737, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Texas County in Oklahoma from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded area, but the restrictions pertaining to the interstate movement of cattle from

nonquarantined areas contained in said Part 73 will apply to the excluded area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

In § 73.1a, paragraph (f) relating to the State of Oklahoma is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 8th day of March 1978.

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

J. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-6541 Filed 3-13-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

[Docket No. RM-50-3]

PART 51—LICENSING AND REGULA- TORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTEC- TION

Environmental Effects of the Uranium Fuel Cycle

MARCH 8, 1978.

On Monday, March 6, 1978, Ms. Ruth Thomas informed this Board by telephone that Environmentalists, Inc. had decided to forego the presentation of oral testimony in this proceeding. The written testimonies of its wit-

nesses, Ruth Thomas, David H. Martin and Ronald P. Wilder, were submitted by letter dated October 3, 1977 from Dida McMurray, president of the organization, and were served by the Commission on all other parties. These documents will be placed in the record and full consideration given to them.

As a result of this decision by Environmentalists, Inc. the hearing set for Monday, March 27 is hereby cancelled. The hearing on the economic matters will proceed as scheduled on March 28.

It is so ordered.

For the Hearing Board:

ROMAYNE M. SKRUTSKI,
Secretary to the
Hearing Board.

[FR Doc. 78-6535 Filed 3-13-78; 8:45 am]

[6720-01]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 78-138]

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

Change in Corporate Title

MARCH 8, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment establishes a procedure for notice and opportunity for comment when a Federal savings and loan association applies to the Board for permission to change its name. Recent experience processing name-change applications without such a procedure has indicated a need for it in order to ensure that all persons interested in such an application will have the opportunity to become aware of it and comment on it. This opportunity has also been taken to clarify and shorten the existing corporate-title regulatory provision.

EFFECTIVE DATE: March 14, 1978.

FOR FURTHER INFORMATION,
CONTACT:

Harry W. Quillian, Associate General Counsel. Telephone number: 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 77-339, dated June 1, 1977 (42 FR 29511-29512), proposed to amend § 543.1 of the Rules and Regulations of the Federal Savings and Loan System (12 CFR 543.1) for the purpose described above. The Board

requested comments on the proposal to be received by July 15, 1977. Seven public comments were received with six in favor (five Federal associations and one trade group) and one opposed (a Federal association). On the basis of comments received and other information available, the Board has adopted amendments which modify the proposed regulation in a number of ways.

Objections were raised on the grounds that biased parties would file protests, and that the decision should rest solely with the applicant and the supervisory authorities. Additional objections were made regarding additional costs and absence of notice-and-comment procedures for state-chartered institutions. The Board is not persuaded by these responses. It is the very purpose of the amendment to provide opportunity for protest in cases where a proposed name change could cause harm or confusion. The Board believes that the additional costs of publication will be minor (applications are already required) and a good investment in terms of avoidance of later administrative and judicial problems. The Board also believes it has responsibility to regulate Federal associations in this and other aspects of their operations as it believes proper and appropriate, regardless of whether such regulation differs from that which the various states may impose on institutions operating under their charters.

The final regulations amend the proposal by providing that filing, notice, and protest procedures shall follow the Board's branching procedures. The applicant is required to justify the proposed name change, and to notify the Board's Office of Industry Development as well as the Supervisory Agent. Supervisory Agents are directed to examine the applicant's State and all contiguous States for similar names and notify interested parties who may wish to protest the application. In the event of multiple notice publications, for example in home and branch office locations, or notification by the Supervisory Agent, the protest period shall run from the date of the notice relied upon.

The grounds for exclusion of protests have been reworded to permit exclusion from consideration only of protests which are: (1) not timely, or (2) do not specify harm expected to result from approval and reasons why approval should be denied. One respondent suggested that the proposed grounds were too broad and vague.

The Principal Supervisory Agent (PSA) has been delegated authority to exclude nonspecific protests; the proposal had been silent in this respect. It is not the Board's intention that PSAs make decisions of fact or law regard-

ing the ultimate validity of protestants' assertions, but rather that they eliminate nonspecific protests by determining whether protestants have sufficiently stated bases for claims of unfair competition or other harm.

Under the proposal, authority would have been delegated to PSAs to approve or deny unprotested applications. The final regulation restricts the delegation to approval of unprotested applications, except those which request inclusion of a State name which is not immediately preceded by the name of the home office locality, in which case the Board determines whether such name is justified. The purpose of requiring such justification is to avoid misleading the public into thinking that an association's operations are state-wide when that is not actually the case. PSAs are also delegated authority to approve requests for charter amendments needed as a result of name changes. Applications disfavored by the PSA, those which are protested, and State-name applications, shall be forwarded to the Board for decision.

The proposal indicated that the Board would consider protests to name-change applications which specified reasons why approval would result in unfair competition or public confusion, or be otherwise inappropriate or unsuitable. After further consideration, the Board believes the regulation should make clear that a Federal association should neither adopt initially nor change to a name which would have such results or be otherwise unsuitable. A sentence has therefore been added to the end of paragraph (a) of the regulation expressly prohibiting a Federal association from adopting or changing to a corporate title which would result in unfair competition or public confusion, or be deceptive, scandalous, or otherwise unsuitable.

The Board finds that publication of the amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. § 553(d) prior to effective date would be contrary to the public interest in prompt establishment of a procedure affording opportunity for public notice and comment on name-change applications.

Accordingly, the Board hereby revises § 543.1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 543.1) by revising and designating as paragraph (a) its existing text, and adding a new paragraph (b), to read as set forth below; effective March 14, 1978.

§ 543.1 Corporate title.

(a) A Federal association's title shall include the words "Federal Savings and Loan Association" preceded by

suitable descriptive words, and may be followed by words indicating location, including a State or regional name immediately preceded by the name of the locality of the association's home office. State or regional names may be used elsewhere in the title if the applicant clearly demonstrates, and the Board finds, that such use is justified. A Federal association shall not adopt or change to a title which will result in unfair competition or public confusion, or be deceptive, scandalous, or otherwise unsuitable.

(b) *Title change.*—(1) *Filing, notice, and protest.* Applications containing a factual statement justifying the proposed change shall be filed with the Supervisory Agent, with a copy to the Director of the Board's Office of Industry Development. The Supervisory Agent shall determine whether there are similarly named institutions in the same or any contiguous State, and promptly notify them of the application. Processing, notice, and protest procedures shall accord with the Board's branch-office application procedures, except that the closing date for any protest shall be determined by using the date of the notice relied upon by a protestant. The Principal Supervisory Agent may exclude from consideration protests which are not timely or do not specify: (i) harm expected to result from approval, and (ii) reasons why approval should be denied.

(2) *Decision.* The Principal Supervisory Agent may approve an unprotested application (or application subject only to nonspecific protest(s)) and corresponding request for charter amendment, and shall forward for Board decision applications which: (i) he believes warrant disapproval, (ii) are protested, or (iii) use a State or regional name not immediately preceded by applicant's home office locality.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-6628 Filed 3-13-78; 8:45 am]

[6720-01]

**SUBCHAPTER C—RULES AND REGULATIONS
FOR THE FEDERAL SAVINGS AND LOAN
SYSTEM**

[No. 78-137]

**PART 550—CEASE-AND-DESIST AND
SUSPENSION AND REMOVAL
ORDERS**

**SUBCHAPTER D—FEDERAL SAVINGS AND
LOAN INSURANCE CORPORATION**

**PART 566—CEASE-AND-DESIST AND
SUSPENSION AND REMOVAL
ORDERS**

**Amendments Regarding Procedures
and Standards Applicable to Sus-
pensions and Prohibitions Where
Felony Charged**

MARCH 8, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: These regulations establish procedures and standards applicable to proceedings by the Board to suspend and/or prohibit from participation any officer or director or other person participating in the conduct of the affairs of an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, where such person is charged with a felony involving dishonesty or breach of trust. The regulations are intended to make available to such persons specific procedures for hearings in such cases, and are believed by the Board to be necessary because present regulations do not so provide. The Board has also taken this opportunity to shorten its regulations by deleting repetitive regulations pertaining to this subject.

EFFECTIVE DATE: March 14, 1978.

**FOR FURTHER INFORMATION,
CONTACT:**

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Telephone 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 77-363, dated June 15, 1977 (42 FR 31803-31804), proposed to amend § 550.5 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 550.5) and § 566.5 of the Rules and Regulations for Insurance of Accounts (12 CFR 566.5) for the purpose described above. The Board requested comments on the proposal to be received by July 22, 1977. Eleven public comments were received with three in favor (two Federal associations and a trade group), four simply recommending revisions (two Federal associations, one State-chartered institution, and one State agency), and four opposed (three Federal associations and one State-char-

tered institution). On the basis of comments received and other information available, the Board has determined to adopt the regulations substantially as proposed.

Objections were raised on the grounds that, if a hearing is held after suspension has been initiated, the suspended individual would be treated as "guilty until proven innocent," and that a suspension decision should be made by the association rather than the Board. These commenters appear to be unaware that the Board is statutorily authorized to suspend or prohibit participation by an individual immediately after indictment, and that provision for a hearing constitutes a liberalization of the present summary procedure. The Board has decided against Pre-suspension hearings because continuance in office of affected individuals prior to hearing could cause harm to insured institutions.

Two commenters questioned broadening the crimes list to include misdemeanors under State law which, because of the maximum sentence which could be imposed, are equivalent to a felony under Federal law; the relevant statutes speak only of "felony involving dishonesty or breach of trust." However, the Board believes inclusion of State-law misdemeanors which impose penalties equivalent to Federal felonies is within the spirit of the Federal statutes; offenses of equal severity should be treated equally.

The California Savings and Loan Department recommended prior notification of impending action to the appropriate State supervisor, because adverse publicity involving a State-chartered institution may necessitate immediate steps by the supervisor. The Board is not statutorily required to notify State authorities of suspension proceedings; however, it generally is in communication with local supervisory personnel before taking disciplinary action, and does not believe it necessary to provide formally for this in the regulation.

One commenter suggested that the regulations be extended to reinstatement in the event of acquittal or dropping of the charges. The regulation addresses this question indirectly: It provides that the suspension shall continue until disposition of the charges or termination by the Board. The Board has decided against inclusion of specific "reinstatement" provisions, because lifting the suspension results in reinstatement without the formality of notice and hearing.

The proposed amendments would have included substantially identical provisions in both the Federal Regulations and the Insurance Regulations. These were set forth separately because the the statutory authority derives from separate sources for the two classes of regulated institutions. How-

ever, the Board has concluded that the body of regulations can be appreciably shortened by a simple reference to one in the other, and the final regulations reflect this change by including the new provisions in the regulations of greater generality (the Insurance Regulations).

The Board finds that the effective date of these amendments should not be delayed for the 30-day period specified in 5 U.S.C. § 553(d) and 12 CFR 508.14 because the standards and procedures they would establish are urgently needed for the protection of the persons and institutions to which the amendments apply.

Accordingly, the Board hereby amends parts 550 and 566 as set forth below.

1. Amend part 550 by deleting §§ 550.1, 550.2, 550.3, 550.4, and 550.5 thereof, adding a new § 550.1 thereto, and redesignating § 550.6 thereof as new § 550.2, to read as follows:

Sec.

550.1 General.

550.2 Temporary appointment of directors.

AUTHORITY: The provisions of this part 550 are issued under sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.

§ 550.1 General.

Implementation of this part as authorized under section 5(d) of the Home Owners' Loan Act shall be in accordance with part 566 of this chapter.

§ 550.2 Temporary appointment of directors.

If at any time, because of the suspension of one or more directors pursuant to the provisions of this part, there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board and not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are so suspended, the Board shall appoint persons to serve temporarily as directors in their place and stand pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the association and their respective successors take office.

2. Amend part 566 by deleting the text of paragraph (a) of § 566.5 thereof and substituting the following new text:

§ 566.5 Suspension and removal where felony charged.

(a) *Suspension and/or temporary prohibition.*—(1) *Notice of suspension or prohibition.* Whenever a director or officer of an insured institution or any other person participating in the af-

fairs of such institution is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States attorney, with commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law) involving dishonesty or breach of trust, the Corporation, upon a preliminary determination that such charge has been made, may, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the affairs of the institution, or both. A copy of the notice of suspension also shall be served upon the institution.

(2) *Notice of hearing.* (i) A notice of suspension and/or prohibition issued pursuant to subparagraph (a)(1) of this section shall be accompanied by a notice to the individual that he may, within 30 days after service of such notice, petition in writing for a hearing at which he may present evidence and argument as to why the suspension and/or prohibition should not continue in effect. Every such notice of opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(ii) A petition for a hearing shall state with particularity the relief desired and the grounds therefor, and shall include supporting evidence, when available. Two copies of such petition and supporting evidence shall be filed with the Secretary to the Federal Home Loan Bank Board.

(iii) If an individual fails to petition for a hearing, or fails to appear at a hearing, either in person or by attorney, or fails to submit a written argument where a hearing has been waived pursuant to subparagraph (a)(4) of this section, the suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or is terminated by the Corporation.

(3) *Hearing.* (i) After receipt of a petition complying with subparagraph (a)(2)(ii) of this section, the Corporation will order a hearing to commence within the next 30 days, in Washington, D.C., or such other place as it designates, before a person designated by it to conduct the said hearing.

(ii) The notice of hearing shall be served by the Secretary upon the party or parties afforded the hearing and shall set forth the time and place of the hearing and the name and address of the presiding officer.

(iii) The subject individual may appear at the hearing personally, through counsel, or personally with counsel. He shall have the right to introduce relevant and material evidence

and to present an oral argument before the presiding officer. Members of the staff of the Federal Home Loan Bank Board's Office of the General Counsel also may attend the hearing and participate therein as a party. Formal rules of evidence shall not apply to the hearing, nor shall the adjudicative provisions of the Administrative Procedure Act (5 U.S.C. 556) apply. The proceedings shall be recorded and a transcript furnished to the individual upon request and after payment of the cost thereof. Witnesses may be presented, within specified time limits, if a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn, unless specifically requested by either party or the presiding officer. The presiding officer may ask questions of any witness and each party shall have an opportunity to cross-examine any witness presented by an opposing party. Upon the request of either the subject individual or a representative of the office of the General Counsel, the record shall remain open for a period of five (5) business days following the hearing, during which time the parties may make any additional submissions to the record. Thereafter, the record shall be closed.

(d) The presiding officer will, where possible, make recommendations to the Corporation within ten (10) business days following the closing of the record.

(4) *Waiver of hearing.* The subject individual may, in writing, waive an oral hearing and instead elect to have the matter determined by the Corporation on the basis of written submissions alone.

(5) *Decision of Corporation.* (i) The Corporation shall render its decision within thirty (30) days following receipt of the presiding officer's recommendations, or receipt of the subject individual's written submissions where a hearing has been waived pursuant to subparagraph (a)(4) of this section. The decision shall include a statement of the basis for the decision and shall be provided to the subject individual and the institution.

(ii) The Corporation may extend said thirty (30) day period for good cause, but in no instance shall the period exceed 60 days after close of the hearing or receipt of written submissions where a hearing has been waived pursuant to subparagraph (a)(4) of this section. Where such an extension is required, the individual shall be notified of the reason for the extension and the expected date upon which a final decision will be rendered.

(6) *Relevant considerations.* (i) In deciding the question of suspension under this section, the Corporation will consider the following:

(a) Whether the alleged offense: (1) is a felony (or a misdemeanor under

State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law), and (2) involved dishonesty or a breach of trust;

(b) Whether continued presence of the subject individual in his position would constitute a possible danger to the safety or soundness of the insured institution because of: (1) the nature and extent of the individual's participation in the affairs of the insured institution, or (2) the nature of the offense with which the individual has been charged;

(c) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of a particular institution or the savings and loan system (either generally or in the particular locality in which the institution is situated) if the subject individual is permitted to remain in his position in an insured institution; and

(d) Whether the individual is covered by the institution's fidelity bond and, if so, whether the bonding company is likely to revoke the bond or coverage under the bond will be affected as a result of the charge.

(ii) The Corporation may also consider any other factors which, in a specific case, appear relevant to continuation of a suspension order.

(iii) In deciding the question whether a notice of suspension and/or prohibition shall continue or terminate, the Corporation shall not consider the ultimate question of the guilt or innocence of the subject individual with regard to the offense with which he has been charged.

(Secs. 5, 402, 403, 407, 48 Stat. 132, 1256, 1257, 1260, as amended; 12 U.S.C. 1464, 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-6627 Filed 3-13-78; 8:45 am]

[6720-01]

SUBCHAPTER D—REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 78-126]

PART 564—SETTLEMENT OF INSURANCE

Amendment Concerning Trusteed Personnel Benefit Plans

MARCH 8, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final amendment.

SUMMARY: This amendment specifically provides separate insurance coverage for interests in pension and other trustee personnel benefit plans. Also, coverage is accorded contingent interests of each participant; formerly, all such interests in any plan in any institution were aggregated and insured up to a maximum of \$40,000. This amendment is needed because there are presently no specific regulations as to insurance coverage of accounts containing funds of pension of other trustee employee benefit plans.

EFFECTIVE DATE: March 14, 1978.

FOR FURTHER INFORMATION, CONTACT:

Harry W. Quillian, Associate General Counsel, telephone number 202-377-6440.

SUPPLEMENTARY INFORMATION: Prior to this amendment, these Rules and Regulations for Insurance of Accounts contained no specific provisions as to insurance coverage for pension and other trustee employee benefit funds. Because of this, the rules and regulations governing valuation of trust interest, generally, have been applied to such funds. Pension and other employee benefit funds have thus been tested under § 564.2(c)(1) (12 CFR 564.2(c)(1)) like other irrevocable trusts, with individual trust estates being separately insured only if they are vested or subject to contingencies capable of evaluation by use of the present worth tables in the Federal Tax regulations (26 CFR 20.2031-10). At present, all nonvested trust estates in the same trust in any institution are insured up to \$40,000 in the aggregate.

The amendment revises § 564.2(c)(1) by adding to it a final sentence to provide that in connection with accounts containing pension and other trustee employees benefit plans, including Keogh and IRA plans, the trust estate of each participant shall be evaluated for insurance purposes as if the interest of such participant had fully vested as of the date of default of the insured institution. The amendment broadens the insurance coverage for participants in such plans so as to separately insure the interest of each participant up to \$40,000, regardless of whether such interest is vested or nonvested.

The Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11, because these amendments relieve restriction, and (2) publication of said amendments for the 30-day notice specified in 5 U.S.C. 553(d) and 12

CFR 508.14 prior to effective date is unnecessary for the same reason.

The Board also finds that this amendment renders unnecessary the more limited amendment proposed by Board Resolution No. 77-475 of July 27, 1977 (42 FR 39115), which would have simply codified prior interpretations of the Board's Office of General Counsel as to insurance coverage of IRA and Keogh Plan retirement accounts under existing regulations.

Accordingly, the Board hereby withdraws the amendment proposed by Board Resolution No. 77-475 and amends 12 CFR Part 564 by revising paragraph (c)(1) of § 564.2 to read as follows, effective March 14, 1978.

§ 564.2 General Principles applicable in determining insurance of accounts.

* * *

(c) *Valuation of trust interests.* (1) Trust estates in the same trust invested in the same account will be separately insured if the value of the trust estate is capable of determination, as of the date of default, without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in section 20.2031-10 of the Federal Estate Tax Regulations (26 CFR 20.2031-10). Notwithstanding the foregoing, in connection with pension and other trustee employee benefit funds (including those qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954), the trust estate of each participant shall be evaluated as if the trust were irrevocable and the interest of the participant had fully vested as of the date of default of the insured institution.

* * *

(Secs. 401, 402, 403, 405, 48 Stat. 1255, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-6626 Filed 3-13-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5912; File No. S7-688]

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

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Private Placement Exemptive Rule

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment and adoption of related form.

SUMMARY: This release (1) amends the rule relating to exemptions for offers and sales of securities by an issuer not involving a public offering to require the filing of a form in connection with use of the rule, and (2) adopts the form to be filed when making use of the rule. These actions are taken in order to provide the Commission, investors and other interested persons basic information concerning use of the rule.

EFFECTIVE DATE: May 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas D. Hamill, Chief Counsel, Division of Enforcement, Securities and Exchange Commission, Washington, D.C. 20549, 202-376-5202.

SUPPLEMENTARY INFORMATION: In connection with the adoption of Rule 146 (Release No. 33-5487 (April 23, 1974) [39 FR 15266 (May 2, 1974)]), the Commission explicitly noted that it would reexamine the need for a filing or notification requirement after it had gained experience with the rule. The Commission also stated that if its experience indicated that a filing or notification requirement was appropriate for the protection of investors and in the public interest, changes in the rule to institute such a requirement would be proposed.

Rule 146 relates to section 4(2) of the Act [15 U.S.C. 77d (2)], which exempts from the Act's registration provisions transactions by an issuer which would not involve a public offering. The rule is designed to provide a "safe harbor" for issuers of securities not registered under the Act where no public offering, within the meaning of section 4(2), takes place.

On April 18, 1977 (Release No. 33-5822 (April 18, 1977) [42 FR 21815 (April 29, 1977)]), the Commission proposed the amendment of Rule 146 and the adoption of a related Form 146¹ in

¹Form 146 is filed as a part of the original document.

conjunction with the Commission's then recent request for information from the public on the operation of Rule 146 (Release No. 33-5779 (Dec. 6, 1976) [41 FR 53808 (Dec. 9, 1976)]). Such actions were intended to foster the Commission's evaluation of the utility of Rule 146.

As announced concurrently herewith, the Commission has determined that, indeed, the utility of Rule 146 warrants its continuation. However, the Commission has determined that it is appropriate for the protection of investors and in the public interest to require a notification of certain offerings utilizing the rule.

As the Commission stated in Release No. 33-5822 (April 18, 1977) [42 FR 21815 (May 29, 1977)]:

Although the Commission's experience with Rule 146 has been limited due to the absence of a notification requirement, the Commission has become aware that the rule apparently has been abused on several occasions by various issuers. In this regard, there appear to have been numerous instances in which issuers have made offerings of securities ostensibly in reliance upon Rule 146, although they have failed to comply with all of the requirements of the rule.

The Commission's experience with Rule 146 has demonstrated two needs: first, the need for empirical data as to the use of Rule 146 as a "safe harbor" provision; and, second, the need to be able to perceive misuses of the rule and, thus, to become aware of, and prevent, frauds in their incipient stages. The Commission believes that the empirical data resulting from the adoption of a notice requirement is essential in order to determine the impact of the adoption of Rule 146 and will enable the Commission and the public to make a more informed judgment as to whether the rule is accomplishing the objectives which prompted its promulgation. The Commission further believes that adoption of a notice requirement will provide relevant data regarding the volume and nature of transactions effected in reliance upon the rule and, consequently, valuable insights into the relationship of such transactions to the overall capital formation process. Accordingly, the Commission hereby adopts Form 146 and rules relating to its implementation.

A brief analysis of the provisions of the rule amendments and of Form 146 is provided below; however, attention is directed to the text of the rule and of the form for a more complete understanding of their provisions.

In response to comments received from the public concerning the proposal to adopt Form 146 the Commission wishes to reemphasize that:

... attempted compliance with Rule 146 does not act as an election so that the issuer can no longer claim section 4(2) outside the rule.

The issuer can always claim the protection of both the Rule and section 4(2), but will have the burden of proof. (Release No. 33-5487)

The amendment to Rule 146 adopted hereby requires issuers to file a report with the Commission containing information about certain offerings made by such issuers in reliance upon Rule 146. Copies of the form will be available at the Commission's Regional Offices. No report is required for offerings the proceeds of which total, cumulatively, less than \$50,000 during any twelve-month period.

Pursuant to comments received as a result of the proposal of Form 146, and on its own motion, the Commission has substantially revised and shortened the originally proposed form. As a result, information required by the form has been substantially reduced and should be readily available to issuers utilizing the rule, thus leading to a short, simple and inexpensive reporting process.

As adopted, in the absence of any material change to the information required by the form, only one filing will be necessary in connection with each offering subject to the notice requirement. That filing is required at the time of the first sale of securities in the offering. The information provided by Form 146 will serve the purpose of providing both the Commission and interested members of the public with current information about the offering.

The Commission is aware that certain issuers availing themselves of the benefits of Rule 146 may, subsequent to sales in reliance thereon, already report such sales to the Commission by virtue of the fact that such issuers are subject to the periodic reporting requirements of the federal securities laws. The Commission has also considered limiting reports of sales based upon Rule 146 to certain industries or to certain issuers meeting specified financial and other criteria. And, the Commission has given substantial consideration to the question of increasing the \$50,000 threshold for the reporting requirement. The Commission has determined, however, that until such time as it has developed sufficient experience, based upon the filing of Form 146 as adopted, further minimization of the notice requirement would not be appropriate.

CHANGES FROM ORIGINAL PROPOSALS

As originally proposed in Release No. 33-5822, paragraph (i) of Rule 146 would have required the filing of five copies of Form 146 with the Commission at its principal office in Washington, D.C. As adopted, three copies of the form are required and they shall be filed at the Commission's Regional Office for the region in which the issuer's principal business operations are conducted or are proposed to be con-

ducted in the United States. For those issuers having or proposing to have their principal business operations outside the United States, the form shall be filed with the Regional Office of the Commission for the region in which the offering is primarily conducted or proposed to be conducted.

Paragraph (i) of Rule 146, as originally proposed, would have required the filing of Form 146 within 10 days after the first sale of securities in any offering effected in reliance on Rule 146. In addition, a second Form 146 would have been required to have been filed within 10 days after termination of any such offering or, in those cases where an offering continued for a period greater than one year, annually within 10 days after each anniversary date of the first sale of securities in such offering. As adopted, paragraph (i) requires that the Form 146 with respect to any particular offering need be filed only once and that filing is required at the time of the first sale of securities in any offering effected in reliance on Rule 146.

The original exemption from the filing requirement for offerings which total, cumulatively, less than \$50,000 during any twelve-month period has been continued.

As adopted, section 146 of the Commission's rules regarding forms prescribed under the Securities Act of 1933 has been revised from that originally proposed in order to reflect the changes in Rule 146(i) described above.

In light of the changes described above, both Rule 146 and new Section 146 have been revised, as adopted, to make explicit the requirement that a new form 146 must be filed in order to reflect any material changes in the information contained on any prior Form 146 with respect to an offering.

As adopted, Form 146 has been substantially revised and shortened from the original proposal; this action has been taken in order to lessen any burden upon those filing the form while at the same time making available to the Commission and the public that minimum of information which will permit the Commission to monitor the use of Rule 146 while giving further evaluation to the information which should be required on Form 146.

The form now consists of three items, as opposed to the originally proposed seven. Information required by the form, as adopted, includes:

(i) Basic information regarding the issuer and its chief executive officer or natural persons who are the issuer's general partner(s), promoter(s), or controlling person(s);

(ii) Names and addresses of organizers, promoters, and sponsors of, an offeree representatives involved in, the offering;

(iii) The title and dollar amount of existing and planned sales of the security in the offering; and

(iv) The existence of prior filings by the issuer with the Commission.

The information required by (iv) above will assist the Commission and the public in determining the extent of the use of Rule 146 by particular issuers and otherwise facilitate the monitoring of such use. Further, such information will assist the Commission in its future deliberations regarding Form 146.

Form 146, as revised, does not explicitly require the filing of information regarding underwriters, brokers, finders and other persons acting on behalf of the issuer in connection with the offering because, essentially, the inclusion of such terms is, in most cases, duplicative of the term "organizers, promoters and sponsors," information regarding whom is required.

STATUTORY BASIS AND EFFECTIVE DATE

Pursuant to the Securities Act of 1933, and particularly sections 4(2) and 19(a) thereof [15 U.S.C. 77d(2) and 77ss(a)], the Commission amends § 230.146 and adopts § 239.146 of Chapter II of Title 17 of the Code of Federal Regulations, effective May 3, 1978, for offerings commencing on or after that date. The Commission finds that the changes reflected in the rules and form, as adopted, from those proposed for comment, are technical or generally have been subject to public comment, and that further notice and other rule making procedures pursuant to the Administrative Procedure Act are not necessary.

The text of the rule amendment and form follows:

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

(i) *Report of offering.* At the time of the first sale of securities in any offering effected in reliance on this rule the issuer shall file three copies of a report on Form 146 with the Commission at the Commission's Regional Office for the region in which the issuer's principal business operations are conducted or proposed to be conducted in the United States. The copies of such report with respect to an issuer having or proposing to have its principal business operations outside the United States shall be filed with the Regional Office for the region in which the offering is primarily conducted or proposed to be conducted. No report need be filed for any offering or offerings in reliance on Rule 146 the proceeds of which total, cumulatively, less than \$50,000 during any twelve-month period. If any material change occurs in the facts set forth on the report on Form 146 filed with the Commission, the person who filed the statement shall promptly file with the

Commission, at the Regional Office of the Commission in which the original report on Form 146 was filed, three copies of an amended Form 146 disclosing such change.

§ 239.146 Form 146, report by issuer of sales of securities pursuant to § 230.146 of this chapter.

Three copies of this form shall be filed with the Commission at the time of the first sale of securities in any offering of securities effected in reliance upon Rule 146 (§ 230.146 of this chapter). No report need be filed for any offering or offerings in reliance on Rule 146 the proceeds of which total, cumulatively, less than \$50,000 during any twelve-month period. If any material change occurs in the facts set forth on the report on Form 146 filed with the Commission, the person who files the statement shall promptly file with the Commission, at the Regional Office of the Commission in which the original report on Form 146 was filed, three copies of an amended Form 146 disclosing such change.

(Secs. 4(2), 19(a), 48 Stat. 77, 85; Secs. 203, 209, 48 Stat. 906, 908; Sec. 12, 78 Stat. 580; 15 U.S.C. 77d(2), 77s(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 3, 1978.

[FR Doc. 78-6569 Filed 3-13-78; 8:45 am]

[8010-01]

[Release No. 34-14538]

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

Uniform Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment.

SUMMARY: This release announces the adoption of previously proposed amendments to the Commission's net capital rule which provides for specific treatment relating to certain trading strategies in listed options known as "straddles." This modification is appropriate since the rule previously treated each component of a "straddle" as a separate unrelated option position requiring a deduction on each side of a listed option straddle. The effect of the amendments is to recognize the limited market risk to a bona-fide straddle by specifying that the deduction required by the net capital rule with respect to a straddle be equal to the greater of such separately applicable charge.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director,

Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-7610.

SUPPLEMENTARY INFORMATION:

The Securities and Exchange Commission today announced the adoption of certain amendments to Rule 15c3-1 [17 CFR 240.15c3-1] ("section 240.15c3-1") under the Securities Exchange Act of 1934, the uniform net capital rule. The amendments, which become effective on April 17, 1978, are basically identical to those contained in Securities Exchange Act Release No. 13622 (June 13, 1977) [42 FR 31810 (June 23, 1977)] with minor modifications to Rule 15c3-1(c)(2)(x)(E), which establishes the allocation sequence for hedges involving puts, and Rule 15c3-1a(c)(13) and (14) which conforms the treatment of a straddle to the deduction applied to a listed option under Rule 15c3-1a(c)(8).

STATUTORY BASES, COMPETITIVE CONSIDERATION AND EFFECTIVE DATE

Pursuant to the Securities Exchange Act of 1934 and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), 78w(a), the Commission amends section 240.15c3-1 in part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below, effective April 17, 1978. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to provide minimum safeguards with respect to financial responsibility of brokers and dealers.

TEXT OF AMENDMENTS TO § 240.15c3-1

Section 240.15c3-1(a)(6)(iii)(A), (c)(2)(x)(A) (8) and (9); (c)(2)(x) (D) and (E) (1), (3) and (4) is revised to read as follows:

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

(a) ***
(6) ***
(iii) ***

(A) An amount equal to 25 percent (5 percent in the case of exempted securities) of the market value of the long positions and 30 percent of the market value of the short positions; provided, however, in the case of long or short positions in options and long or short positions in securities other

¹Those sections amended or added are 240.15c3-1(a)(6)(iii)(A); 240.15c3-1(c)(2)(x)(A) (8) and (9); 240.15c3-1(c)(2)(D)(1) and (2); 240.15c3-1(c)(2)(x)(E)(1) and (3); and 240.15c3-1a(c)(13) and (14).

than options which relate to a bona-fide hedged position as defined in paragraph (c)(2)(x)(C) of this section, such amount shall equal the deductions in respect of such positions specified by paragraph (c)(2)(x)(A)(1)-(9) of this section.

(c) * * *
(2) * * *
(x) * * *
(A) * * *

(8) In the case of a bona-fide straddle position as defined in this paragraph (c)(2)(x), the deduction shall be the greater of the deductions which this paragraph (c)(2)(x) would require in respect of the call option position and the put option if both positions were pure long (or short) positions.

(9) In the case of positions in securities which are not part of a bona-fide hedged, spread or straddle position as defined in this paragraph (c)(2)(x) and, in the case of options, which are not listed on the national securities exchange of which such specialist is a member, the deduction shall be that set forth in paragraph (c)(2)(vi) of this section, or, if such securities are options, the deduction shall be that set forth in Appendix A (17 CFR 240.15c3-1a) to this section.

(D)(1) For purposes of this paragraph (c)(2)(x), a bona-fide spread position shall mean long and short positions in the same type (that is, put or call) of option contracts for the same number of units of the same underlying security.

(2) For purposes of this paragraph (c)(2)(x), a bona-fide straddle position shall mean long put and long call (or short put and short call) positions for the same number of units of the same underlying security.

(E) For purposes of applying the deductions required by paragraph (A) of this paragraph (c)(2)(x) in respect of positions in each such specialist's market maker account, long and short positions in each such account shall be allocated in the following sequence:

(1) Bona fide hedged positions as defined in paragraph (C) of this paragraph (c)(2)(x) shall be constituted by first matching long or short positions in securities, other than options, against offsetting long or short call options positions taken in order of increasing exercise value and any remaining long or short positions in securities, other than options, against offsetting long or short put options positions taken in order of decreasing exercise values; provided that, in the case of long (or short) options of equal exercise value, the option possessing the greatest time to expiration shall be matched first.

(2) * * *

(3) Thereafter, bona-fide straddle positions as defined in paragraph (D) of this paragraph (c)(2)(x) shall be constituted by matching long (or short) call options taken in order of increasing exercise values against offsetting long (or short) put options taken in order of decreasing exercise values; provided, that in the case of long (or short) call (or put) options of equal exercise value, the option possessing the greatest time to expiration shall be matched first.

(4) Thereafter, long or short positions not allocated pursuant to paragraphs (1), (2) or (3) above shall be treated in manner prescribed by paragraphs (A), (A)(1) or (A)(9) of this paragraph (c)(2)(x).

Section 240.15c3-1a(c) (13) and (14) are added to read as follows:

§ 240.15c3-1a Options (Appendix A to 17 CFR 240.15c3-1).

(c) * * *

(13) *Certain Straddle Positions.* Where a broker or dealer is long a listed call and is also long a listed put for the same underlying security, the deduction shall be the greater of (i) the deduction resulting from application of paragraph (c)(8) of this Appendix A to the long call; or (ii) the deduction resulting from application of the same paragraph to the long put.

(14) Where a broker or dealer is short a listed call and is also short a listed put for the same underlying security, the deduction, after application of the adjustments required by paragraph (a) of this Appendix A, shall be the greater of (i) the deduction resulting from the application of paragraph (c)(1) of this Appendix A to the short call, or (ii) the deduction resulting from the application of paragraph (c)(2) of this Appendix A to the short put.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 7, 1978.

[FR Doc. 78-6629 Filed 3-13-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 78N-0042]

PART 105—FOODS FOR SPECIAL DIETARY USES

SUBCHAPTER C—DRUGS: GENERAL

PART 250—SPECIAL REQUIREMENTS FOR SPECIFIC HUMAN DRUGS

Vitamins A and D; Revocation of Certain Requirements

AGENCY: Food and Drug Administration.

ACTION: Final order.

SUMMARY: This order revokes two regulations which the United States Court of Appeals for the Second Circuit has ruled are invalid. The regulations had provided that certain high potency preparations of vitamins A and D would be restricted to sale as prescription drugs.

EFFECTIVE DATE: March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Tenny Neprud, Compliance Regulations and Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 2, 1973 (38 FR 20723), the Commissioner of Food and Drugs promulgated final regulations, 21 CFR 3.94 and 3.95 (recodified as 21 CFR 250.109 and 250.110), providing that certain high potency oral preparations of vitamin A (in excess of 10,000 international units (IU) per dosage unit or recommended daily intake) and vitamin D (in excess of 400 IU per dosage unit or recommended daily intake) would be restricted to sale as prescription drugs.

On June 7, 1977, after protracted litigation, the United States Court of Appeals for the Second Circuit ruled that these regulations are invalid. *National Nutritional Foods Association v. Mathews*, 557 F.2d 325 (2d Cir. 1977). The Court reversed a decision by the United States District Court for the Southern District of New York which had upheld the regulations. 418 F. Supp. 394 (S.D.N.Y. 1976).

The regulations were prompted by data showing that excessive consump-

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tion of Vitamins A and D can cause serious harm to human health. In an earlier decision, 512 F.2d 688 (2d Cir. 1975), the Court of Appeals stated that "There was ample evidence before the FDA that Vitamins A and D, when consumed in large quantities over a period of time, can be acutely toxic." 512 F.2d at 704. At that time, however, the Court of Appeals remanded the case to the District Court for further inquiry concerning whether FDA had properly deemed all high potency vitamin A and D preparations to be subject to regulation as drugs. The District Court ruled that the "drug" determination was proper, but the Court of Appeals reversed in its June 7, 1977, decision. Under the Court of Appeal's decision, high potency oral preparations of vitamins A and D, if represented solely as special dietary foods (e.g., "dietary supplements") and not intended for therapeutic purposes are subject to the food provisions of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., instead of the drug provisions of that act.

Copies of the judicial decisions cited above have been placed on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and are available for public inspection between 9 a.m. and 4 p.m., Monday through Friday.

Under the decision by the Court of Appeals, the Commissioner hereby orders that 21 CFR 250.109 and 250.110 and cross-references to these sections appearing in 21 CFR 105.85 (f)(1) and (2) be revoked. Accordingly, Parts 105 and 250 are amended as follows:

§ 105.85 [Amended]

1. Part 105 is amended in § 105.85 *Dietary supplements of vitamins and minerals* by revoking paragraph (f)(1) and (2) and marking it reserved.

§§ 250.109, 250.110 [Revoked]

2. Part 250 is amended by revoking § 250.109 *Vitamin A preparations for oral use as drugs* and § 250.110 *Vitamin D preparations for oral use as drugs*.

Because this order is a ministerial act revoking regulations already ruled by the Court of Appeals to be invalid, and because it relieves a restriction and there is no useful purpose in postponing the effective date, the Commissioner concludes, under the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d) (1) and (3)), that notice and public procedure and delayed effective date are unnecessary.

Effective date. This order is effective March 14, 1978.

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner
for Compliance.*

[FR Doc. 78-6421 Filed 3-13-78; 8:45 am]

[4110-03]

[Docket No. 76P-0163]

PART 146—CANNED FRUIT JUICES

Identity and Quality Standard for Canned Pineapple Juice; Partial Confirmation and Stay

AGENCY: Food and Drug Administration.

ACTION: Partial confirmation of effective date and stay of one provision.

SUMMARY: This document confirms, except for one provision, the effective date of the final regulation that amended the standard of identity and standard of quality for canned pineapple juice. Based upon an objection and request for hearing, the effective date of the minimum Brix requirement in the standard of quality for "pineapple juice from concentrate" is stayed pending a determination of whether a public hearing is necessary to resolve the issue raised by the objection. A notice of hearing specifying any issues on which a hearing is justified and other pertinent information will be published in the FEDERAL REGISTER at a later date.

EFFECTIVE DATES: Compliance with the final regulation, except for the provision stayed, including any required labeling changes, may have begun July 27, 1976, and all products initially introduced into interstate commerce on or after January 1, 1978, shall fully comply.

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF-402), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1232.

SUPPLEMENTARY INFORMATION:

In the FEDERAL REGISTER of May 28, 1976 (41 FR 21768), the Commissioner of Food and Drugs issued a final regulation revising the standards of identity (21 CFR 27.54) and quality (21 CFR 27.55) for canned pineapple juice to: (1) Permit the use of concentrated pineapple juice in the preparation of the canned juice; (2) permit the use of any safe and suitable liquid sweetener when concentrated juice is used in the preparation of the canned juice; (3) require the name "pineapple juice from concentrate" when the canned juice is prepared from concentrate; (4) permit

the use of any safe and suitable dry nutritive carbohydrate sweetener rather than only sugar; (5) require the label declaration of all optional ingredients; and, (6) establish, in the quality standard, a minimum pineapple juice soluble solids requirements of 13.5° Brix for the product made from concentrate. Sections 27.54 and 27.55 subsequently were recodified as §§ 146.185(a) and 146.185(b) respectively, and published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302).

One objection and a request for a hearing were received. The objection was specifically to the 13.5° Brix minimum soluble solids requirement established for "pineapple juice from concentrate" in the quality standard.

The objection stated that the 13.5° Brix requirement is too high and suggested that if the Brix requirement becomes effective, it will decrease product acceptance and, at the same time, increase the cost of the product to the U.S. consumer. The company that filed the objection had stated earlier in a comment on the proposal that the taste studies of pineapple juice from concentrate indicated that a Brix level of 12.0° to 12.5° produced a product with the "most pleasant mouth feel" for the greatest number of potential consumers.

PROVISION STAYED

The objection filed to the final regulation published in the FEDERAL REGISTER of May 28, 1976 stayed that part of the regulation to which objections were made. Accordingly, the provision establishing the 13.5° Brix minimum pineapple juice soluble solids requirement in § 146.185(b)(1)(i) is stayed. A notice of hearing, as provided for in 21 CFR 12.35, stating any issues on which a hearing is justified and setting out other pertinent information will be published in the FEDERAL REGISTER at a later date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that objections were received and the provision to which objections were made is stayed until further notice. Accordingly, except for the minimum 13.5° Brix requirement of § 146.185(b)(1)(i) listed above as stayed, the effective date of § 146.185 as published in the FEDERAL REGISTER of May 28, 1976 (41 FR 21768) is confirmed as follows: Compliance with the regulation may have begun on July 27, 1976, and all products initially introduced into interstate commerce on or after January 1, 1978, shall fully comply. The Commissioner advises that, pending final resolution of the minimum 13.5° Brix requirement of § 146.185(b)(1)(i), he will consider pine-

apple juice from concentrate to be misbranded if the pineapple juice soluble solids are not equivalent to that in the single strength pineapple juice from which the concentrate was prepared.

Dated: March 7, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6526 Filed 3-13-78; 8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0028]

PART 310—NEW DRUGS

Requirements for Inhalation Anesthetic Drug Products; Studies for Carcinogenic and Teratogenic Potential

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document extends the date by which holders of new drug application (NDA's) and abbreviated new drug applications (ANDA's) for halogenated inhalation anesthetic drug products are required to submit final protocols for animal studies on the potential of such drug products to cause cancer and fetal abnormalities. The agency is taking this action because more time is required for developing final protocols than is currently permitted under the regulation.

DATES: Effective March 14, 1978; comments by April 13, 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:

I. David Wolfson, Bureau of Drugs (HFD-160), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 22, 1977 (42 FR 37538), the Commissioner of Food and Drugs issued a final rule (21 CFR 310.511) requiring holders of new drug applications (NDA's) and abbreviated new drug applications (ANDA's) for halogenated inhalation anesthetic drug products to conduct certain animal studies on their products. The studies are intended to determine the drug products' carcinogenic potential and effects on reproduction. The NDA and ANDA holders also are required to submit reports on the

studies to the Food and Drug Administration (FDA). The regulation was effective on August 22, 1977. Preliminary protocols for the studies were required to be submitted to FDA by September 20, 1977. A workshop was scheduled for December 5, 1977, and final protocols were required to be submitted to FDA by February 13, 1978.

Preliminary protocols for the studies were submitted by the NDA and ANDA holders. Copies of the preliminary protocols and a draft protocol prepared by FDA have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration. Several persons participated in the workshop on December 5 and 6, 1977, at which the preliminary protocols were discussed. After reviewing the preliminary protocols and the information and materials presented at the workshop, the Commissioner believes it was impractical to require the submission of final protocols by February 13, 1978.

Accordingly, the Commissioner is amending § 310.511(b) to require NDA and ANDA holders to submit final protocols for the studies on or before September 1, 1978. The Bureau of Drugs expects that it will be able to distribute guideline final protocols to participants in the workshop and other interested persons by May 1, 1978. The holders of NDA's and ANDA's subject to § 310.511 can then either notify the Bureau of Drugs that they intend to follow FDA's guideline final protocols or submit, on or before September 1, 1978, their own protocols for the studies they intend to conduct.

Because this amendment simply reflects the agency's scheduling of its work priorities and only establishes the date for submission of documents to the agency, the Commissioner finds, for good cause, that notice and public procedure are impractical and unnecessary and that the amendment may be made effective on the date of publication. However, interested persons may, on or before April 13, 1978, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of written comments on this amendment, identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk, between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by the comments will be the subject of a further amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amend-

ed by revising the last sentence in § 310.511(b) to read as follows:

§ 310.511 Inhalation anesthetic drugs.

(b) * * * The NDA and ANDA holders shall submit the final protocols for the studies to the Food and Drug Administration, on or before September 1, 1978.

Effective date: March 14, 1978.

(Secs. 505, 701(a), 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a))).

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6422 Filed 3-13-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM
NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Diethylcarbamazine Citrate Syrup

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 the American Cyanamid Co. providing for safe and effective use of diethylcarbamazine citrate syrup in dogs as an aid in control of large roundworm infections.

EFFECTIVE DATE: March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: The American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540, filed a supplemental NADA (91-628V) providing for use of diethylcarbamazine citrate syrup in the treatment of dogs for the control of large roundworms in addition to its use for the prevention of heartworm infections.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness 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), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. to 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), § 520.622b is amended by revising paragraph (b)(3)(i) to read as follows:

§ 520.622b Diethylcarbamazine citrate syrup.

(b) * * *

(3) *Conditions of use.* (i) It is used in dogs for the prevention of infection with *Dirofilaria immitis* and as an aid in the control of large roundworms (*Toxocara canis*).

Effective date: March 14, 1978.

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

Dated: March 7, 1978.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc. 78-6424 Filed 3-13-78; 8:45 am]

[4110-03]

PART 526—INTRAMAMMARY DOSAGE FORMS NOT SUBJECT TO CERTIFICATION

Novobiocin Oil Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by the Upjohn Co. providing for the use of a novobiocin infusion for the treatment of mastitis in lactating cows.

EFFECTIVE DATE: March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, Mich. 49001, filed an NADA (100-808V) providing for use of a 150 milligrams novobiocin intramammary infusion for treatment of mastitis in lactating cows caused by susceptible strains of *Staphylococcus aureus*.

Under 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 and effectiveness 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), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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), § 526.1590 (21 CFR 526.1590) is amended by redesignating the existing text as paragraph (a) and adding new paragraph (b) to read as follows:

§ 526.1590 Novobiocin oil suspension.

(a) (1) *Specifications.* Each 10 milliliters of oil suspension contains the equivalent of 400 milligrams of novobiocin (present as sodium novobiocin).

(2) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(3) *Related tolerances.* See § 556.460 of this chapter.

(4) *Conditions of use.*—(i) *Amount.* Ten milliliters (equivalent to 400 milligrams of novobiocin) infused in each quarter.

(ii) *Indications for use.* It is used in dry cows for the treatment of mastitis caused by susceptible strains of *Staphylococcus aureus* and *Streptococcus agalactiae*.

(iii) *Limitations.* Infuse each quarter at the time of drying off, but not less than 30 days prior to calving. Do not slaughter treated animals for food use for 30 days following udder infusion. For udder installation for the treatment of mastitis in dry cows only.

(b)(1) *Specifications.* Each 10 milliliters of oil suspension contains the equivalent of 150 milligrams of novobiocin (present as sodium novobiocin).

(2) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(3) *Related tolerances.* See § 556.460 of this chapter.

(4) *Conditions of use.*—(i) *Amount.* Infuse 10 milliliters (equivalent to 150 milligrams of novobiocin) in each quarter after milking. Repeat treatment once after 24 hours.

(ii) *Indications for use.* Use in lactating cows for treatment of mastitis caused by susceptible strains of *Staphylococcus aureus*.

(iii) *Limitations.* Do not milk for at least 6 hours after treatment; afterwards, milk at regular intervals. Milk taken from treated animals within 72 hours (6 milkings) after latest treatment must not be used for food. Do not slaughter treated animals for food for 15 days following latest treatment. If redness, swelling, or abnormal milk

persists or increases after treatment, discontinue use and consult a veterinarian. For udder installation in lactating cattle only. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: March 14, 1978.

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

Dated: March 7, 1978.

FRED J. KINGMA,
Acting Director,

Bureau of Veterinary Medicine.

[FR Doc. 78-6423 Filed 3-13-78; 8:45 am]

[4110-03]

SUBCHAPTER F—BIOLOGICS

[Docket No. 75N-0308]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

Revision and Updating of Standards

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes additional standards for the manufacture of Reagent Red Blood Cells and prescribes a new dating period for Reagent Red Blood Cells and exempts manufacturers of Reagent Red Blood Cells from conducting the general sterility test prescribed in the biologics regulations. These amendments revise and update older standards of production and testing.

DATES: Effective date September 11, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Joe Holloway, 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: In the FEDERAL REGISTER of November 11, 1975, (40 FR 52621), the Commissioner of Food and Drugs proposed Additional Standards for the manufacture of Reagent Red Blood Cells. The proposal included many of the provisions of the uncodified standards published in 1961 by the Department of Health, Education, and Welfare, as "Tentative Control Procedures: Reagent Red Blood Cells (Human)." The

proposal also contained changes and additions that reflect more recent scientific experiences and developments. Interested persons were given until January 12, 1976, to submit comments.

Twenty-eight letters, each containing a number of comments, were received. The comments and the Commissioner's responses are as follows:

1. Nine comments concerned § 610.53 and the extension of the dating period from 21 to 35 days. Some comments suggested that extension of the dating period to 35 days was undesirable because of the potential for loss of reactivity of the reagent. Other comments said the proposed 35-day dating period would negate approvals already obtained by particular licensees from the Bureau of Biologics for longer dating periods.

A dating period for each type of licensed product is approved only after stability data are submitted to the Bureau of Biologics by each manufacturer demonstrating beyond reasonable doubt that the product will yield specific results and retain its safety, purity, reactivity, and effectiveness throughout the dating period, provided it is stored at the recommended temperatures. These data establish that there is no excessive loss of reactivity for Reagent Red Blood Cell products with approved dating over 21 days.

In the FEDERAL REGISTER of January 31, 1978 (43 FR 4006), the Commissioner amended § 610.53 by adding new paragraph (b) to provide exemptions or modifications of the dating period prescribed in the regulations. Therefore, manufacturers with approved licensees providing for dating periods exceeding 35 days may continue to market such products. Accordingly, the comments are rejected.

2. Five comments suggested amendment of § 610.53 to include the phrase "from the date of collection" to identify the start of the dating period.

The Commissioner accepts the comment, and § 610.53 is amended in the final rule to clarify that the dating period shall start from the earliest date of collection. For consistency § 660.35(f) (redesignated § 660.35(k)) is amended to require the licensee to include the date of manufacture in the antigenic constitution matrix or package insert.

3. Three comments concerning § 610.53 noted that the required storage temperature for Reagent Red Blood Cells is 2°-8° C, and for Whole Blood (Human) it is 1°-6° C. The comments suggested a uniform storage temperature of 1°-6° C should be established for both products. Another comment suggested that Reagent Red Blood Cell be refrigerated during shipment to ensure safety, purity, and reactivity.

The Commissioner disagrees with the comments. The storage tempera-

ture for Whole Blood (Human) was established to assure maintenance of red blood cell viability for transfusion. This temperature range is not required for Reagent Red Blood Cells to maintain their reactivity and effectiveness over the dating period. The Commissioner believes that the difference in storage temperatures will not create any undue hardships to those who wish to store both products in the same refrigerators since most establishments maintain stored blood at no colder than 2° C to provide a margin of safety against normal temperature fluctuations. The suggestion that Reagent Red Blood Cell shipments be refrigerated was not supported by the submission of data establishing the need for, and benefits of such a requirement. The Commissioner finds that the safety, purity, reactivity, and efficacy of the product is not compromised at the stated storage temperature or during normal shipping intervals. Accordingly, both suggestions are rejected.

4. One comment on § 660.30(b) suggested that the source of the product be identified as "adult" human blood.

The phrase "peripheral blood" has traditionally been used to refer to adult, human, peripheral blood. That is the intended meaning as used in this regulation, and the Commissioner believes that further clarification is not necessary. Accordingly, the comment is rejected.

5. The Commissioner is amending § 660.32 to include reference to § 640.4(c) as a blood collection procedure that is not required for the collection of source material for Reagent Red Blood Cells.

Correspondingly, § 660.32 will require that procedures for collection of cord blood must be approved in writing by the Director, Bureau of Biologics, for each establishment wishing to collect cord blood.

6. Two comments on proposed § 660.33 said the need for Reagent Red Blood Cells to detect sensitizing (coating) antibodies as well as agglutinating antibodies and hemolysins was ignored in the preamble as well as in the proposed regulation. Another comment suggested the existence of non-red-cell stimulated alloantibodies was also ignored.

The Commissioner did not intend to exclude either group of antibodies. Therefore, § 660.33 is amended to require that those group O cells used in antibody detection must include the following common antigens in each lot: D, C, E, c, e, K, k, Fy^a, Fy^b, Jk^a, Jk^b, Le^a, Le^b, P₁, M, N, S, and s. All manufacturers currently licensed to manufacture and distribute these products already meet these requirements. For consistency, § 660.34(a) is amended in the final regulation to require that Reagent Red Blood Cells be

capable of detecting hemolyzing, agglutinating, and coating antibodies.

7. One comment recommended that § 660.33 be amended to require that strong Bg(a+), Bg(b+), and Bg(c+), cells be excluded from products used by antiglobulin methods.

The Commissioner recognizes that strong Bg(a+), Bg(b+), and Bg(c+) bearing cells may sometimes interfere with the interpretation of the test results. However, the Commissioner is not proposing to impose a new requirement that these antigens be identified on the Reagent Red Blood Cell products at this time because currently there are not enough properly characterized antisera available to type every donor's cells for these antigens. In addition, precluding Bg(a+), Bg(b+), and Bg(c+), donors would significantly limit the number of donors for products used by antiglobulin methods. Accordingly, the comment is rejected.

8. Thirteen comments on proposed § 660.33 asked if complete antigen testing must be done for each donor when the donor's cells are used in a lot of product.

The Commissioner did not intend to require complete antigen testing each time a donor's cells are used in a lot of product. Rather, the intent of the regulation is to assure that every antigen claimed present or absent has at some time been accurately determined. Once it is determined that a donor's cells bear a certain antigen, there is no need for subsequent testing for that antigen. However, if new claims are made in subsequent lots of product in which the donor's cells are used, the donor's antigen profile must be updated to reflect the new claims.

9. Two comments suggested § 660.33 be amended to allow for the testing of cord cell pools instead of testing each donor sample individually.

The Commissioner disagrees with the comment. The manufacturer must test each donor sample individually for the antigens claimed in the labeling before the samples are pooled, since the testing of pools is a less sensitive test to eliminate unwanted donors. The Commissioner advises that the only tests that must be performed on cord cells are ABO and I blood group test. No other testing must be done for cord cells unless additional claims are made. Accordingly, the comments are rejected.

10. The Commissioner is amending § 660.33 to more thoroughly describe the source material testing currently required by the approved license of all licensed manufacturers of Reagent Red Blood Cells consistent with good manufacturing practices. Therefore, § 660.33 is modified to show that each antigen profile determination shall be performed twice using different lots of antiserum. Such testing reduces the

number of errors resulting from the use of imperfect blood grouping sera reagents and clerical/technical errors in the recording of results or performance of tests.

11. One comment suggested that proposed § 660.34(a) should require that the products detect weakly reacting samples of the antibody at the end of the dating period.

The Commissioner advises that to obtain approval of a license application, manufacturers must include stability data demonstrating that the product will detect weakly reacting antibodies throughout the dating period. Since the product has a short shelf life, it is not feasible to require the manufacturer to perform tests for weakly reacting samples of the antibody on each lot. Based on the submitted stability data, experience has shown that subsequent lots will behave similarly. The Commissioner concludes that this requisite need not be included in the additional standards, and the comment is therefore rejected.

12. One comment on proposed § 660.34(b) objected to the 2 percent cell suspension as a lower limit of acceptability for cell concentration unless a cost consideration based on the actual amount of cells received is required to be shown by the manufacturer.

Reagent Red Blood Cell products are diluted to a 2-percent cell concentration when a more sensitive test is desired. The Commissioner is unaware of data suggesting that this level is ineffective, and the comment presented no data to support a different minimum concentration. Accordingly, the comment is rejected. The Panel on review of Blood and Blood Derivatives is considering the recommendation of an optimal cell concentration for Reagent Red Blood Cells. When the Panel's recommendations are received, the Commissioner will consider proposing an amendment, as appropriate, concerning the Reagent Red Blood Cell concentration.

13. One comment on proposed § 660.34(c) recommended that pooled Reagent Red Blood Cells should not be permitted because pooled cells are less likely to produce detectable agglutination with weak antibodies than unpooled cells. Two other comments recommended that pooled Reagent Red Blood Cell products be limited to cells from two donors.

The Commissioner is aware that pooled Reagent Red Blood Cell products may be less sensitive in detecting certain antibodies that correspond to antigens present on only half of the cells in a product, such as those antibodies that react weakly even when undiluted. The Commissioner concludes that in an antibody screening test of a donor's or patient's serum,

the slight loss of sensitivity from using pooled Reagent Red Blood Cells is not critical to safe transfusion. Accordingly, the comment is rejected.

The Commissioner intended that the regulations limit pools to cells from two donors if the product is recommended for the detection and identification of unexpected antibodies. No manufacturers are currently licensed for such Reagent Red Blood Cells prepared from more than two donors of peripheral blood. Accordingly, the comment suggesting pools be limited to cells from two donors is accepted, and the regulations are modified in § 660.34(c).

14. One comment on § 660.34(d) suggested that each lot be tested to assure that cells are direct antiglobulin test negative.

Testing with a polyspecific Anti-Human Serum to assure that cells are direct antiglobulin test negative is required in current license applications because the cells will give false positive antiglobulin tests unless they are direct antiglobulin test negative. The Commissioner agrees that the requirement should be included in the regulations. The comment is accepted and § 660.34(d) is amended accordingly.

15. Two comments on proposed § 660.34(d) objected to the requirement that the product shall be free of demonstrable antibodies, since some licensed Reagent Red Blood Cells are not prewashed.

The Commissioner recognizes that the requirement concerning absence of antibodies is not relevant to those products from manufacturers that instruct users to wash the cells before use. Accordingly, the comments are accepted, and § 660.34(d) is amended to add the phrase, "unless the package insert and container label include instructions to wash the cells before use." In addition, proposed § 660.35 is amended to include a new paragraph (a), which requires that the container label include instructions to wash the cells before use, if this procedure is required by the manufacturer, or give reasons in the package insert why the cells should not be washed before use, if washing will adversely affect the product.

16. Three comments on proposed § 660.34(e) recommended that either white or black dropper bulbs and caps be allowed.

The Commissioner has no objection to the use of white or black dropper bulbs, nor does the regulation prohibit their use.

17. Three comments said proposed § 660.34(g) would prevent the retention of samples beyond the dating period of the product.

The Commissioner advises that the intent of the regulation is to require that samples be retained at least throughout the dating period of the

product. All samples may be retained longer. Moreover, if a problem arises near the end of the product dating period, the manufacturer is expected to retain all samples until the problem is resolved.

18. One comment on § 660.34 questioned the need for a sterility test for Reagent Red Blood Cells.

The comment is accepted. There is no way of assuring a sterile Reagent Red Blood Cell product because it cannot be filtered. A listing for Reagent Red Blood Cells is added to the listed of products in § 610.12(g)(4) for which a sterility test is not required. This regulation, not § 660.34, is the proper place for the exemption.

19. The Commissioner is amending § 660.35 in the introductory paragraph to change the reference to § 328.10 to § 809.10, consistent with the recodification published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6896).

20. The Commissioner is reorganizing § 660.35 for clarity.

21. Two comments on proposed § 660.35(a) (redesignated § 660.35(c)) suggested that the 2-percent range is too narrow for the more concentrated cell suspensions currently licensed at 20-25 percent. One comment indicated the limits were not clearly stated.

The Commissioner knows of no reason why even the more concentrated (20-25 percent) cell suspensions cannot be prepared with a ± 1 percentage unit range of the declared amount. The comments presented no reasons or data to support revision of the proposed acceptance range. The Commissioner, therefore, rejects the comments. For clarification, the Commissioner is rewording § 660.35(c) to require that the label state the percentage of red blood cells in the suspension as a discrete figure with a variance of no more than ± 1 percent or as a range with extremes that differ by no more than 2 percent. Accordingly, a product with 22 percent red blood cells may be labeled as 22 percent red blood cells or 21-23 percent red blood cells.

22. One comment suggested that § 660.35 be amended to require identification in the labeling of all suspending solution constituents in the Reagent Red Blood Cells.

The Commissioner advises that § 809.10(b)(5) (21 CFR 809.10(b)(5)) already requires the listing of all active and nonactive ingredients in the labeling for such products and that § 660.35 is in addition to the requirements of § 809.10.

23. Seven comments questioned whether one or more of the requirements of proposed § 660.35(b), (c), and (f) (redesignated as § 660.35(d) and (e), (g), and (k) respectively) are applicable to cord cells and cells used for ABO serum grouping (reverse grouping).

The Commissioner advises that cord cell products prepared from pooled

cord cells and ABO serum grouping (reverse grouping) cells prepared from pools must state "pooled cells" on the labeling in compliance with § 660.35(d). However, cord cells and ABO serum grouping cells need not list the number of donors contributing to the pool, and § 660.35(e) is amended accordingly. The requirements of § 660.35(g) do not apply to products designed for ABO serum grouping test. The Commissioner advises that § 660.35(k) applies to all Reagent Red Blood Cells products.

24. Five comments suggested that requirements in proposed § 660.35(c), (d), and (f) (redesignated § 660.35(g), (h), and (k) respectively) are not necessary on the container labels if the package or package inserts contain the information. One of these comments suggested that proposed § 660.35(c) and (d) (redesignated § 660.35(g) and (h) respectively) will interfere in package interchangeability.

The Commissioner advises that § 660.35(g), (h), and (k) does not require that information be placed on the container labels as suggested by the comments. Rather, § 660.35(g) and (h) requires the information on the package label, and paragraph (k) requires the information in the antigenic constitution matrix. However, the Commissioner accepts the comment that the requirements of proposed § 660.35(g) and (h) will interfere with package interchangeability since some manufacturers use unlabeled see-through packages for both Blood Grouping Sera and Reagent Red Blood Cells. The Commissioner is therefore revising § 660.35(g) and (h) to permit the information to be placed either on the package label or in the package insert.

25. Six comments suggested that proposed § 660.35(c) (redesignated § 660.35(g)) be worded to state more directly that the antigenic constitution matrix must reflect only the presence or absence of the blood group antigens for which tests were performed. One other comment suggested that the labeling of pooled cells should indicate the phenotypes of the cells in the pool, noting that some antibodies show a dosage effect, making it important to know whether the cells are homozygous or heterozygous for certain antigens.

In response to the comment concerning the antigenic constitution matrix, the Commissioner is modifying § 660.35(c) (redesignated § 660.35(g)) to require disclosure of the blood group antigens that have been tested for and found present or absent either in the package label or package insert or in the accompanying antigenic constitution matrix. The Commissioner believes that cell phenotype information, such as is currently provided with un-

pooled products, must be provided for pooled cells. Indeed, § 660.33 already requires phenotype testing. Additionally, § 809.10(b)(5) requires a listing of the quantity, proportion, or concentration of each active ingredient in the labeling that accompanies the product. Accordingly, § 660.35(g) is modified to require the listing of the phenotype of the cells. However, serological testing will not always identify the donor as a homozygote or heterozygote for a given antigen. Accordingly, the regulation for Reagent Red Blood Cells is not amended to require that the donor be identified as a homozygote or heterozygote.

26. One comment suggested that proposed § 660.35 be amended to require manufacturers to recommend that Reagent Red Blood Cells be washed before use.

As discussed in paragraph 15 of this preamble, the Commissioner is adding a new paragraph (a) to § 660.35 to require either that the container label include instructions to wash the cells before use when washing is required or that the package insert give reasons why the cells should not be washed before use if washing may adversely affect the product.

27. One comment suggested that proposed § 660.35 include a requirement that manufacturers identify, perhaps by code, each adult cell donor used in making products for antibody detection and identification.

The Commissioner advises that such coding is commonly practiced by manufacturers. It provides useful information to consumers and enhances donor traceability. Accordingly, the comment is accepted, and a new paragraph (i) is added to § 660.35 in the final regulation to require that manufacturers use a permanent donor code in product labeling.

28. One comment on § 660.35 recommended that group O cells not intended for antibody screening be so labeled.

The Commissioner recognizes that some group O cells are not adequate for use in detection of unexpected antibodies. Accordingly, the comment is accepted. The Commissioner is adding a new paragraph (b) to § 660.35 requiring that the label of Group O Reagent Red Blood Cells state: "For use in detection or identification of Unexpected Antibodies" or "Not for use in detection or identification of unexpected antibodies", whichever is applicable.

29. Two comments on proposed § 660.35 suggested that labels should include information concerning hepatitis.

The Commissioner accepts the comments, and a new paragraph (j) is added to § 660.35 to require that the package insert shall contain a warning statement concerning hepatitis.

30. One comment suggests § 660.35 be amended to require that all final products be HB_sAg (hepatitis B surface antigen) negative.

HB_sAg reactive source material may be used in the preparation of licensed in-vitro diagnostic biological products only as provided for in § 610.40(d)(2) (21 CFR 610.40(d)(2)). Reagent Red Blood Cells do not meet these criteria and therefore must be produced using source material which tested negative. Because of the nonreactive nature of the source material, the Commissioner concludes that testing final Reagent Red Blood Cell products is not required. Accordingly, the comment is rejected.

31. One comment on § 660.35 suggested that manufacturers be required to make more cell-typing information available. For example, panel cells are not generally labeled for Chido, Rogers, Knops, McCoy, York, Cost-Stirling, Sid, and Bg factors. The antibodies corresponding to these factors are not infrequent, and it would be helpful to many laboratories if manufacturers would provide all known cell-typing information.

Since the cell-typing information suggested by the comment is not necessary for safe transfusion, the Commissioner concludes that the suggested amendment would present an undue hardship to manufacturers. Accordingly, the comment is rejected. However, the Commissioner encourages manufacturers to provide additional footnotes on package inserts concerning antigen profiles when this additional information is known.

32. One comment on proposed § 660.36(a)(2) questioned the necessity of submitting the results of all tests performed on the annual inspection samples and suggested that only tests related to purity and efficacy of the product be reported.

The tests relating to purity and efficacy are conducted on finished product containers and therefore do not fully document the in-process characteristics of the lot. Complete records are necessary to demonstrate that a lot has been manufactured in accordance with the product license requirements. Owing to its short shelf life, individual lot release is not required for Reagent Red Blood Cells. Thus, full testing results become of paramount importance in evaluating the safety and effectiveness of this product. Accordingly, the comment is rejected.

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), Subchapter F of Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 610 and 660 as follows:

1. Part 610 is amended:

a. In § 610.12(g)(4) by adding "Reagent Red Blood Cells" to the list of products not requiring a sterility test; paragraph (g)(4) is therefore revised to read as follows:

§ 610.12 Sterility.

(g) ***
(4) *Test precluded or not required.* The tests prescribed in this section need not be performed for Whole Blood (Human), Cryoprecipitated Antithrombin Factor (Human), Platelet Concentrate (Human), Leukocyte Typing Serum, Red Blood Cells (Human), Single Donor Plasma (Human), Source Plasma (Human), Smallpox Vaccine, Reagent Red Blood Cells, and other similar products concerning which the commissioner of Food and Drugs finds that the mode of administration, the method of preparation, or the special nature of the product precludes or does not require a sterility test.

b. In § 610.53 by amending paragraph (a) in the listing therein by revising the entry for "Reagent Red Blood Cells (Human)," as follows:

§ 610.53 Dating periods for specific products.

(a) ***
Reagent Red Blood Cells. Thirty-five days from earliest date of collection.
§ 610.51 does not apply.

2. Part 660 is amended by adding a new Subpart D, consisting of §§ 660.30 through 660.36, to read as follows:

Subpart D—Reagent Red Blood Cells

Sec.
660.30 Reagent Red Blood Cells.
660.31 Suitability of the donor.
660.32 Collection of the source material.
660.33 Testing of source material.
660.34 Processing.
660.35 Labeling.
660.36 Samples and protocols.

Subpart D—Reagent Red Blood Cells

§ 660.30 Reagent Red Blood Cells.

(a) *Proper name and definition.* The proper name of the product shall be Reagent Red Blood Cells, which shall consist of a preparation of human red blood cells used to detect or identify human blood-group antibodies.

(b) *Source.* Reagent Red Blood Cells shall be prepared from human umbilical cord blood or human peripheral blood meeting the criteria of §§ 660.31 and 660.32.

§ 660.31 Suitability of the donor.

Donors of peripheral blood for Reagent Red Blood Cells shall meet the

criteria for donor suitability prescribed under § 640.3 of this chapter, except that paragraphs (b) (5) and (6), (d), and (e) of § 640.3 shall not apply.

§ 660.32 Collection of source material.

Blood for Reagent Red Blood Cells from donors of peripheral blood shall be collected as prescribed under § 640.4 of this chapter, except that paragraphs (c), (d), (g), and (h) of § 640.4 shall not apply. Procedures for collection of cord blood must be approved in writing by the Director, Bureau of Biologics.

§ 660.33 Testing of source material.

A sample of each blood incorporated into the Reagent Red Blood Cell product shall be individually tested, with no less than two donor sources of each antibody specificity employed, to confirm the identification of all blood group antigens specified in the labeling as present or absent. Each of these tests shall be conducted and interpreted independently, and any discrepancy between the results of these two tests shall be resolved by testing with at least one additional antiserum before concluding that the antigen is present or absent. The manufacturer shall perform at least one of the required tests for each factor. Group O Reagent Red Blood Cells used in the detection and identification of unexpected antibodies shall include the following common antigens in each lot of the product: D, C, E, c, e, K, k, Fy^a, Fy^b, Jk^a, Jk^b, Le^a, Le^b, P₁, M, N, S, and s.

§ 660.34 Processing.

(a) *Processing method.* The processing method shall be one that has been shown consistently to yield a product that is capable of detecting hemolyzing, agglutinating, or coating antibodies corresponding to all blood group antigens specified in the labeling as present throughout the dating period.

(b) *Red blood cell concentration.* Each lot of final product shall have a red blood cell concentration of no less than 2 percent.

(c) *Products prepared from pooled red blood cells.* If the product is recommended for the detection or identification of unexpected antibodies, the pool shall be prepared by combining equal amounts of cells from no more than two donors. Cord cells are exempt from this requirement.

(d) *Absence of antibodies.* Each lot of final product shall be free of demonstrable antibodies, unless the package insert and container label include instructions to wash the cells before use. The final product shall also be direct antiglobulin test negative when tested with polyspecific anti-human serum.

(e) *Final container.* The final containers used for each lot of product

shall be sterile, colorless, and transparent. Color coding of the product, labels, container caps, or droppers supplied with the product shall not be used.

(f) *Date of manufacture.* The date of manufacture of the product shall be the date that the blood is withdrawn from the donor. If the product consists of red blood cells from two or more donors, the date of manufacture of the final product shall be the date of withdrawal of blood from the donor of the oldest constituent blood. When a product consists of more than one container, e.g., cell panel, the date of manufacture of each container of the product shall be the earliest date that blood was withdrawn from a donor for any container in the product.

(g) *Retention samples.* Retention samples shall be maintained as required by § 600.13 of this chapter, except that samples must be retained only throughout the dating period of the product.

§ 660.35 Labeling.

In addition to the items required by § 809.10 of this chapter and other applicable labeling provisions of this chapter, the following information shall be included in the labeling:

(a) If washing the cells is required by the manufacturer, the container label shall contain appropriate instructions; if the cells should not be washed before use, e.g., if washing will adversely affect the product, the package insert shall explain.

(b) The container label of Group O cells shall state: "For use in detection and identification of unexpected antibodies" or "Not for use in detection and identification of unexpected antibodies," whichever is applicable.

(c) The container and package labels shall state the percentage of red blood cells in the suspension either as a discrete figure with a variance of no more than ± 1 percentage unit or as a range the extremes of which differ by no more than 2 percentage units.

(d) The words "pooled cells" shall appear on the container and package labels of products prepared from pooled cells.

(e) The package insert of a pooled product intended for detection and identification of unexpected antibodies shall identify the number of donors contributing to the pool. Products designed exclusively for ABO Serum Grouping and cord cells need not identify the number of donors in the pool.

(f) When the product is a multicontainer product, e.g., a cell panel, the container label and package label shall be assigned the same identifying lot number, and shall also bear a number or symbol to distinguish one container from another. Such number or symbol shall also appear on the antigenic constitution matrix.

(g) The package label or package insert shall state the phenotype of blood group antigens that have been tested for and found present or absent on the cells of each donor, or refer to such information in an accompanying antigenic constitution matrix. Cells for ABO Serum Grouping are exempt from this requirement.

(h) The package label or package insert shall bear the cautionary statement: "The reactivity of the product may decrease during the dating period."

(i) The package insert shall provide adequate directions for use.

(j) The package insert shall bear the statement: "Caution: Source Material From Which This Product Was Derived Was Found Nonreactive for HBsAg When Tested With Licensed Reagents. No Known Test Method Can Offer Assurance That Products Derived From Human Blood Will Not Transmit Hepatitis."

(k) The package insert or the antigenic constitution matrix for each lot of product shall specify the date of manufacture.

(l) Manufacturers shall identify with a permanent donor code in the product labeling each donor of peripheral blood contributing to products used for detection or identification of unexpected antibodies.

§ 660.36 Samples and protocols.

(a) The following shall be submitted to the Director, Bureau of Biologics, (HFB-300) Food and Drug Administration, 8800 Rockville Pike, Bethesda, Md. 20014, within 30 days after each annual inspection by the Bureau of Biologics personnel.

(1) A sample of each product manufactured and packaged as for distribution. The sample shall have at least 14 days remaining on the dating period when shipped to the Bureau of biologics.

(2) A protocol consisting of the date of manufacture and the results of all tests performed before distribution of the lot from which the samples were taken.

(b) A copy of the antigenic constitution matrix specifying the antigens present or absent shall be submitted to the Director, Bureau of Biologics, at the time of initial distribution of each lot of Reagent Red Blood Cells for detection and identification of unexpected antibodies. Products designed exclusively to identify Anti-A, Anti-A₁, and Anti-B, as well as products composed entirely of umbilical cord cells, are excluded from this requirement.

Pertinent background data and information on which the commissioner relies in promulgating this regulation are on file in the office of the Hearing Clerk (HFC-20), Room 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Effective date. This regulation becomes effective September 11, 1978.

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

Dated: March 8, 1978.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc. 78-6525 Filed 3-13-78; 8:45 am]

[4110-03]

SUBCHAPTER G—COSMETICS

[Docket No. 75N-0005]

PART 701—COSMETIC LABELING

"Hypoallergenic" and Other Claims of Relative Safety

AGENCY: Food and Drug Administration.

ACTION: Revocation of rule.

SUMMARY: In response to the decision of the United States Court of Appeals in *Almay v. Califano*, C.A. No. 7618 (D.C. Cir. December 21, 1977; petition for rehearing denied February 10, 1978), the Commissioner of Food and Drugs is revoking the rule relating to the use of "hypoallergenic" and other claims of relative safety in cosmetic product labeling.

EFFECTIVE DATE: The revocation of rule is effective March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1530.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 6, 1975 (40 FR 24441), the Commissioner issued a final rule under 21 CFR 701.100 defining the term "hypoallergenic" for use in cosmetic product labeling and providing that a cosmetic may be labeled "hypoallergenic" if scientific studies show that it causes fewer adverse reactions than similar-use competitive products. The rule has not been sustained upon judicial review. *Almay v. Califano*, C.A. No. 76-1718 (D.C. Cir. December 21, 1977; petition for rehearing denied February 10, 1978). Accordingly, the rule is being revoked effective immediately.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 602(a), 701(a), 52 Stat. 1041 as amended, 1054 as amended, and 1055 (21 U.S.C. 321(n), 362(a), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 701 is amended by revoking Subpart D—Specific Statements in Labeling, consist-

ing at this time of § 701.100 "Hypoallergenic" and other claims of relative safety.

EFFECTIVE DATE: The revocation of rule is effective March 14, 1978.

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner,
for Compliance.

[FR Doc. 78-6425 Filed 3-13-78; 8:45 am]

[7708-01]

Title 29—Labor

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the interim regulation.

SUMMARY: This amendment to the interim regulation on valuation of plan benefits prescribes the rates and factors to be used for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 for plans that terminated on or after June 1, 1977, but before December 1, 1977. It is necessary to finalize the valuation rates and factors for plans that terminated during the period covered by the amendment. The amendment's effect is to provide notice of the rates and factors that will be used to value benefits provided under such plans.

EFFECTIVE DATE: March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202-254-4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 et seq.). The regulation included an appendix containing rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated

on or after October 1, 1975, but before June 1, 1977. (42 FR 2678 et seq., 42 FR 32777 et seq., 42 FR 41858 et seq., 42 FR 59753 et seq.).

On November 21, 1977, the PBGC published for comment in the FEDERAL REGISTER additional rates and factors for valuing benefits in plans that terminated on or after June 1, 1977, but before December 1, 1977 (42 FR 59760 et seq.). No comments were received regarding that proposed amendment to the interim regulation, and accordingly the PBGC hereby adopts the proposed interest rates and factors without change.

Because of the need to provide immediate guidance for the valuation of benefits in plans that terminated on or after June 1, 1977, but before December 1, 1977, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations, is amended by adding a new Table IX to Appendix B to read as follows:

IX. The following interest rates and quantities used to value deferred annuities shall be effective for plans that terminate on or after June 1, 1977, but before December 1, 1977.

I. Interest rate for valuing immediate annuities. An interest rate of 6% percent shall be used to value immediate annuities, to compute the quantity "Gy" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. Interest rate for valuing death benefits. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. Interest rates and quantities used for valuing deferred annuities. The following factors shall be used to value deferred annuities pursuant to § 2610.6:

- (1) $k_1 = 1.0625$.
- (2) $k_2 = 1.045$.
- (3) $k_3 = 1.0375$.
- (4) $n_1 = 8$.
- (5) $n_2 = 10$.

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b) (1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b) (1)(A)).)

Issued at Washington, D.C., on this 7th day of March 1978.

RAY MARSHALL,
Chairman, Board of Directors,
Pension Benefit Guaranty
Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

HENRY ROSE,
Secretary, Pension Benefit
Guaranty Corporation.

(FR Doc. 78-6481 Filed 3-13-78; 8:45 am)

[8320-01]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 2—DELEGATIONS OF AUTHORITY

PART 14—LEGAL SERVICES, GENERAL COUNSEL

Medical Care Claims

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: This change provides for increasing the dollar limits of medical care claims that may be collected, compromised, settled, waived, or released by the General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel, and District Counsel, or those authorized to act for them, to \$40,000 without prior approval of the Department of Justice. This is pursuant to an order of the Attorney General.

EFFECTIVE DATE: March 8, 1978.

FOR FURTHER INFORMATION CONTACT:

James P. Kane (021B), Deputy Assistant General Counsel, Office of the General Counsel, Veterans Administration, Washington, D.C. 20420, 202-389-2153.

SUPPLEMENTARY INFORMATION: Compliance with the required notice of proposed regulatory development and delayed effective date is unnecessary and would serve no purpose since the amendment was ordered by the Attorney General on December 27, 1977 (43 FR 1066, January 6, 1978).

Approved: March 8, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In Part 2, § 2.6(e)(3) is revised to read as follows:

§ 2.6 Administrator's delegations of authority to certain officials (38 U.S.C. 212(a)).

Employee occupying or acting in the positions designated in this section are delegated authority as indicated:

(e) General counsel * * *

(3) Under the provisions of "The Federal Medical Care Recovery Act," 42 U.S.C. 2651, et seq. (as implemented by part 43, Title 28, Code of Federal Regulations), authority is delegated to

the General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel, and District Counsel or those authorized to act for them, to collect in full, compromise, settle, or waive any claim and execute the release thereof; however, claims in excess of \$40,000 may be compromised, settled, or waived only with the prior approval of the Department of Justice.

2. In Part 14, § 14.619 (b) and (c) are revised to read as follows:

§ 14.619 Collection action.

(b) The District Counsel may collect, compromise, suspend, or terminate collection activity on any such claim as is authorized under § 2.6(e)(3) of this chapter. However, claims in excess of \$40,000 may be compromised, settled, or waived only with the prior approval of the Department of Justice, which will be obtained through the General Counsel. Any such claim that has not been collected in full and which has not been compromised, suspended or terminated will be referred by the District Counsel to the appropriate U.S. Attorney along with appropriate information necessary to protect the interest of the Government. A copy of the referral to the U.S. Attorney will be sent to the General Counsel's office.

(c) In a case where the District Counsel determines that a claim is appropriate under the provisions of § 17.48(d) of this chapter for the cost of medical or hospital care furnished pursuant to § 17.47 (c)(1), (d), or (f) of this chapter to persons who are otherwise entitled to hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof by virtue of any one or more of the following: Membership in an organization, rights under any medical insurance plan, or a medical rider on an automobile insurance policy, or by reason of a non-fault or worker's compensation or employer's liability or similar statute, State or Federal; right to maintenance and cure in admiralty; statutory or other relationship with third parties, including circumstances where the Veterans Administration is a third party beneficiary of a contract; the District Counsel may collect, compromise, suspend, or terminate collection activity on any such claim not exceeding \$40,000. Claims in excess of \$40,000 may only be compromised, settled, or waived with the approval of the Department of Justice, which will be obtained through the General Counsel. Any such claim not compromised, or on which collection action is not suspended or terminated, will be

referred to the appropriate U.S. Attorney with sufficient data to enable that office to protect the interest of the Government. A copy of all materials referred to the Department of Justice will be furnished the General Counsel.

[FR Doc. 78-6565 Filed 3-13-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE
COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND
REGULATIONS

[Service Order No. 1308]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1308).

SUMMARY: The Union Pacific Railroad Company handles shipments of grain under a tariff provision which requires shippers of 4,750 tons of grain to make three consecutive shipments to qualify for the lowest level of grain rates between origins in Kansas and Nebraska and destinations west of Salt Lake City and Ogden, Utah. Service Order No. 1308 authorizes Union Pacific Railroad to waive the three-consecutive-trip requirements applicable to 4,750 ton shipments of grain.

DATES: Effective 12:01 a.m., March 9, 1978. Expires 11:59 p.m., April 30, 1978.

FOR FURTHER INFORMATION
CONTACT:

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

SUPPLEMENTARY INFORMATION: At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of March, 1978.

An acute shortage of covered hopper cars for transporting shipments of grain, grain products, soybeans, or soybean meal exists on the Union Pacific Railroad Company (UP). That line has published certain rates in Transcontinental Freight Bureau Tariff 45-N, ICC 1850, Item 3208 series, which require the shipment of three consecutive lots of grain, each to comprise 4,750 net tons loaded into not more than fifty (50) covered hopper cars of 100-ton capacity. The consecutive trip provisions of this tariff item are preventing the UP from making an equitable distribution of these covered

hopper cars among all prospective shippers having a need to use such cars. The UP has requested authority to waive the three-consecutive-trip provision of this tariff rule to enable it to continue to offer its shippers the benefit of the lowest level of freight rates published in this item, while at the same time, making a fair and equitable distribution of its 100-ton covered hopper cars among all of its potential users of these cars.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1308 Service Order No. 1308.

(a) *Distribution of covered hopper cars.* The Union Pacific Transportation Co. (UP) is authorized to waive the three-consecutive-trip requirements applicable to 4,750-ton shipments of grain or soybeans published in Item 3208 series of Transcontinental Freight Bureau Tariff 45-N, ICC 1850, supplements thereto or reissues thereof. All other provisions of that tariff shall remain fully in effect.

(b) *Rules and regulations suspended.* The operation of all other tariff provisions or of other rules and regulations insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., March 9, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns,

Robert S. Turkington and John R. Michael.

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

[FR Doc. 78-6624 Filed 3-13-78; 8:45 am]

[7035-01]

[Service Order No. 1309]

PART 1033—CAR SERVICE

Railroad Operating Regulations for
Freight Car Movement

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1309).

SUMMARY: An acute shortage of several types of freight cars exists throughout the country. Service Order No. 1309 applies to all loaded and empty cars of mechanical designations "XM" boxcars, "LO" covered hopper cars and "FC" flat cars. Service Order No. 1309 requires these loaded cars to be placed within 24 hours following arrival at destination; empty cars must be removed from point of unloading or interchange tracks within 24 hours, and loaded and empty cars shall be forwarded within 24 hours. Cars held for light repairs or cleaning shall be placed not later than the first 7 a.m. after car is carded, and these repairs shall be completed within 24 hours. Empty cars, owned by and bearing and the registered reporting marks assigned to the line holding the car, are exempt from provisions of this order.

DATES: Effective 12:01 a.m., March 13, 1978. Expires 11:59 p.m., May 31, 1978.

FOR FURTHER INFORMATION
CONTACT:

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

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of March, 1978.

There are acute shortages of freight cars throughout the country resulting in failures of carriers to furnish an adequate supply of freight cars to shippers located on their lines. These shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities. The existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange,

and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1309 Service Order No. 1309.

(a) *Railroad operating regulations for freight car movement.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars listed in the Official Railway Equipment Register, ICC-RER No. 406, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", "LO", or "FC".

(iii) *Exception.* Empty cars owned by The Alaska Railroad, while held in the State of Washington, pursuant to instructions of the car owner, are exempt from the provisions of this order.

(iv) *Exception.* Empty cars described in part (ii) of this section, owned by and bearing the registered reporting marks assigned to the line holding the car, and empty cars of private ownership reported and awaiting instructions from the car owner, are exempt from the provisions of this order.

(v) *Exception.* To alleviate hardships or inequities, including, but not limited to those caused by extreme weather disruptions, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for recording and submission to the Railroad Service Board, Interstate Commerce Commission, for consideration.

(vi) *Actual placement* means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(vii) *Holidays* shall be those listed in Item 525 of Agent D. M. Rogers' Tariff 4-K, ICC H-74, General Car Demurrage Rules and Charges, supplements thereto, or successive issues thereof.

(2) *Placing of cars.* (i) Loaded cars shall be actually or constructively placed within 24 hours, exclusive of Saturdays, Sundays and holidays, following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty cars which after placement will be subject to demurrage, storage or detention rules applicable to cars for loading, or which are subject to storage rules and charges applicable to assigned cars held empty awaiting placement for loading by the assignee, shall be actually placed or appropriate notice as required by applicable tariffs issued within 48 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(iv) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(v) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, shall be placed on unloading, hold, or inspection tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of cars.* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty cars not ordered for loading at point where made empty must be forwarded or set aside to be cleaned, repaired, or weighed, if to be weighed at that point, within 24 hours following removal of empty cars.

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipping instructions covering the cars. Such cars must be forwarded, weighed, if to be weighed at that point, or set aside for repairs within 24 hours following release and removal.

(iii) Cars subject to parts (i) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of Rules 14 and 27 of the Uniform Freight Classification, ICC 8, issued by J. D. Sherson, supplements thereto, or reissues thereof.

Exception. Dunnage being returned to shipper under provisions of the applicable tariffs may be left in cars released as empty, provided that proper shipping instructions are received by the carrier prior to 5 p.m., of the first day, which is not a Saturday, Sunday, or holiday, immediately following release of the car.

(4) *Forwarding of cars.* (i) Loaded cars and empty cars shall be forwarded within 24 hours, except cars described in parts (ii), (iii), or (iv) of this section, or cars described in part (ii) of section (2).

(ii) *Exception.* Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) *Exception.* Cars held for repairs, weighing, or cleaning. (See Section (5).)

(iv) *Exception.* Cars held because no train or switch engine service is available between hold point and destination.

(5) *Cars held for repairs, weighing, or cleaning.* (i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7 a.m., exclusive of Sundays and holidays, after time carded for repairs or cleaning. Light repairs or cleaning shall be accomplished within 24 hours, exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of

such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restencilled, if required, within 24 hours, exclusive of Sundays and holidays, after arrival at the point at which weighing is to be accomplished, or after request for weight is received, if weights are requested by shipper or by car owner.

(iv) Cars which have been repaired, cleaned or weighed shall become subject to section 2, 3, or 4, as applicable, from the date such repairs, cleaning or weighing have been accomplished.

(6) *Movement of freight cars.* (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergency.

(iii) Back-hauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reconsignment privilege) is hereby prohibited.

(7) *Force majeure defence protected.* Nothing in this order shall deny any carrier its defence of force majeure as construed by the courts.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., March 13, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

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

It is further ordered, That a copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the

terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

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

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

[FR Doc. 78-6634 Filed 3-13-78; 8:45 am]

[7035-01]

[Service Order No. 1307]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1307).

SUMMARY: There is a substantial shortage of refrigerator cars on Burlington Northern, Inc. Service Order No. 1307 requires other railroads to return to the Burlington Northern its refrigerator cars bearing reporting marks assigned to the BN and having several specific mechanical designations.

DATES: Effective 12:01 a.m., March 9, 1978; expires 11:59 p.m., April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of March, 1978.

There is an acute shortage of refrigerator cars on the Burlington Northern Inc. (BN). These shortages are preventing the orderly flow of potatoes and other perishable crops to markets, and are causing severe economic loss to producers and shippers of perishable products dependent upon the BN for transporting these products to market. A portion of the BN's fleets of these cars are loaded to points on the lines of other railroads. Such cars must be returned promptly to the BN for subsequent loading by shippers dependent upon the BN for transporting their shipments. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce

of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1307 Service Order No. 1307.

(a) *Distribution of Refrigerator cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owners empty except as otherwise provided in paragraph (3) of this section, all refrigerator cars described in paragraph (2) of this section owned by the Burlington Northern Inc. (BN) and bearing reporting marks:

BN-BNFE-BRE-NP-WFB-WFE-WHI

(2) The term "refrigerator car" as used in this order means refrigerator cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as bearing reporting marks assigned to the BN (see paragraph (1) of this section) and having any of the following mechanical designations:

"RLO", "RP", "RPB", "RPL", "RPM", "RS", "RSB"

(3) *Exception.* For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(b) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded car, described in this order, contrary to the provisions of the order.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., March 9, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1978, unless otherwise modified, changed or suspended by order of this Commission.

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

It is further ordered, That a copy of this order and direction shall be

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

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

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

[FR Doc. 78-6622 Filed 3-13-78; 8:45 am]

[7035-01]

[Service Order No. 1306]

PART 1033—CAR SERVICE

Distribution of Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1306).

SUMMARY: There is a substantial shortage of 50-ft. plain boxcars on the Chicago and North Western. Service Order No. 1306 requires other railroads to return to the Chicago and North Western its 50-ft. plain boxcars.

DATES: Effective 11:59 p.m., March 11, 1978; expires 11:59 p.m., April 15, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of March, 1978.

There is an acute shortage of plain, 50-ft. boxcars on the railroads named in this order. These shortages are preventing the orderly flow of hay, paper, and other commodities to markets, thus causing severe economic loss to producers and shippers dependent upon these railroads for transporting these products to market. A portion of these cars are loaded to points on the lines of other railroads. Such cars must be returned promptly to the car owners for subsequent loading by shippers dependent upon these railroads for transporting their shipments. It is the opinion of the Commission that an emergency exists requiring immediate

action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1306 Service Order No. 1306.

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty except as otherwise provided in paragraph (3) of this section, all 50-ft. plain boxcars described in paragraph (2) of this section owned by the following railroad:

Chicago and North Western Transportation Company, Reporting Marks: CGW-C&NW

(2) The term "50-ft. plain boxcars" as used in this order means freight cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" with inside length 50-ft., 6-in. or more.

(3) *Exception.* For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(b) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded car, described in this order, contrary to the provisions of the order.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:59 p.m., March 11, 1978.

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

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

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as

agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register Office.

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

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

[FR Doc. 78-6623 Filed 3-13-78; 8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 274 (Sub-No. 2)]

PART 1121—ABANDONMENT OF RAILROAD LINES AND DISCONTINUANCE OF SERVICE

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Publication of Corrections.

SUMMARY: These are corrections to the National Subsidy Standards (49 CFR 1121, Subpart D) published in the FEDERAL REGISTER (Vol. 43, No. 38, 7623) on Friday, February 24, 1978.

DATE: Effective date January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552 or Edward Schack, Acting Deputy Director, Section of Finance, 202-275-7581.

Issued March 8, 1978 by the Interstate Commerce Commission and its Rail Services Planning Office, Alan M. Fitzwater, Director.

By the Commission.

H. GORDON HOMME, Jr.,
Acting Secretary.

CORRECTIONS TO TEXT

1. On 43 FR 7628, in the table, under the heading "Casualties and insurance-switching", for other casualties "51-12-00" should read "52-12-00".

2. On 43 FR 7632, in the table, under the heading "other", for materials, "21-31-99" should read "21-32-99".

3. Also on 43 FR 7632, under the heading "Cleaning car interiors" the following corrections should be made:

a. For salaries and wages, "11-32-70" should read "11-33-70".

b. For materials, "21-32-70" should read "21-33-70".

c. For purchased services, "41-32-70" should read "41-33-70".

[FR Doc. 78-6625 Filed 3-13-78; 8:45 am]

[1505-01]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 10—GENERAL PROVISIONS

Revised List and Definition of Migratory Birds

Correction

In FR Doc. 77-33117, appearing at page 59358, in the issue for Wednesday, November 16, 1977, in the table of § 10.13 beginning on page 59359, make the following corrections:

1. On page 59359, first column, delete "s" on the word "Bobolinks".
2. On page 59359, second column, fifth entry under "Curlew" which reads "Least *Numenius arquata*" should read "Least *Numenius minutus*".
3. On page 59359, third column, "Elaena" should read "Elaenia".
4. On page 59360, first column, twentieth line from the top, the words "Alder" and "Willow" should read "Alder" and "Willow".
5. On page 59361, second column, "Pintall" should read "Pintail".
6. On page 59361, third column, in the entry for "Skimmer", the word "Black" should read "Black".
7. On page 59362, first column, transfer the first four entries at the top to the third column and insert under "Orange-crowned *Vermivora celata*".
8. On page 59362, second column, in the entry for "Veery", the word "catharus" should be capitalized.

[4310-55]

PART 10—GENERAL PROVISIONS

Revised List of Migratory Birds; Corrections

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Corrections.

SUMMARY: This document contains certain corrections to the recent publication in the FEDERAL REGISTER of the revised list of migratory birds.

EFFECTIVE DATE: March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, United States Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-9237.

SUPPLEMENTARY INFORMATION: On November 16, 1977, the Service published in the FEDERAL REGISTER (42 FR 59358) a final rulemaking revising the list of migratory birds contained in 50 CFR 10.13. The revised list contains all species covered by the treaties signed between the United States and Great Britain (on behalf of Canada), the United States and Mexico, and the United States and Japan for the preservation of migratory birds.

This document corrects certain format, ordering, and typographical mistakes in the November 16 publication.

1. In § 10.13, the placement and ordering of the list of species under the heading "DUCKS" are corrected to read as follows:

Dowitcher; long-billed: *Limnodromus scolopaceus*, short-billed: *Limnodromus griseus*.

[DUCKS]: black duck: *Anas rubripes*.

Bufflehead: *Bucephala albeola*.

Canvasback: *Aythya valisineria*.

Eider: common *Somateria mollissima*, King

Somateria spectabilis, Spectacled *Somateria fischeri*, Steller's *Polysticta stelleri*.

Gadwall: *Anas strepera*.

Garganey: *Anas querquedula*.

Goldeneye: barrow's *Bucephala islandica*, common *Bucephala clangula*.

Harlequin duck: *Histrionicus histrionicus*.

Hawaiian duck: *Anas wyvilliana*.

Laysan duck: *Anas laysanensis*.

Mallard: *Anas platyrhynchos*.

Masked duck: *Oxyura dominica*.

Merganser: common *Mergus merganser*, hooded *Lophodytes cucullatus*, red-breasted *Mergus serrator*.

Mexican duck: *Anas diazi*.

Mottled duck (incl. Florida): *Anas fulvigula*.

Oldsquaw: *Clangula hyemalis*.

Pintail: bahama *Anas bahamensis*, northern *Anas acuta*.

Pochard: baer's *Aythya baeri*, common *Aythya ferina*.

Redhead: *Aythya americana*.

Ring-necked duck: *Aythya collaris*.

Ruddy duck: *Oxyura jamaicensis*.

Scaup: greater *Aythya marila*, lesser *Aythya affinis*.

Scoter: black *Melanitta nigra*, surf *Melanitta perspicillata*, white-winged *Melanitta deglandi*.

Shoveler, northern: *Anas clypeata*.

Smew: *Mergellus albellus*.

Teal: Baikal *Anas formosa*, blue-winged *Anas discors*, cinnamon *Anas cyanoptera*, falcated *Anas falcata*, green-winged *Anas crecca*.

Tufted duck: *Aythya fuligula*.

Whistling (tree) duck: black-bellied *Dendrocygna autumnalis*, fulvous *Dendrocygna bicolor*, west indian *dendrocygna arborea*.

Wigeon: American *Anas americana*, european *Anas penelope*.

Wood duck: *Aix sponsa*.

[END OF DUCKS]

Dunlin: *Calidris alpina*

2. Also, in the second column on page 59359, the scientific name for "Crosbill, Red" should read *Loxia curvirostra*.

Dated: March 7, 1978.

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

[FR Doc. 78-6549 Filed 3-13-78; 8:45 am]

PART 21—MIGRATORY BIRD PERMITS [4310-55]

States Meeting Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service adds Colorado to the list of States where falconry laws have been determined by the Director to meet or exceed the minimum Federal Standards. Falconry may be practiced in the States listed in 50 CFR 21.29.

DATE: Effective March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Danny M. Searcy, Special Agent, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-9242.

SUPPLEMENTARY INFORMATION: On January 15, 1976 (41 FR 2237), the Service issued regulations which provided for the review and approval of State falconry laws. If a given State's laws were approved, the State would be listed in 50 CFR 21.29(k), and Falconry permitted pursuant to a system of joint Federal-State permits. Using criteria established in 50 CFR 21.29, the Director reviewed and approved falconry laws of 36 States, and on August 23, 1977, and January 5, 1978, published lists of States in the FEDERAL REGISTER (42 FR 42353 and 43 FR 968).

The Director has now reviewed and approved the falconry laws of the State of Colorado.

Upon publication of this amended § 21.29(k) in the FEDERAL REGISTER, the practice of falconry in Colorado shall be governed by 50 CFR 21.28 and 21.29.

The primary author of this document is Margaret Cash, Regulations Coordinator, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

§ 21.29 [Amended]

Accordingly, § 21.29(k) of Part 21 of Chapter I of Title 50 of the Code of

Federal Regulations is amended by adding Colorado, alphabetically, to the list of States.

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: March 7, 1978.

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

[FR Doc. 78-6550 Filed 3-13-78; 8:45 am]

[3510-22]

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

PART 611—FOREIGN FISHERIES

Tanner Crab

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: These regulations contain the conditions and restrictions pertaining to all foreign fishing for snow (Tanner) crabs in the Bering Sea. They implement the preliminary fishing management plan (PMP) for Tanner crabs in the Bering Sea and are a clarification to aid foreign fishermen.

EFFECTIVE DATE: 0800 G.m.t., March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: 50 CFR 611, as amended, was published on November 28, 1977 (42 FR 60682). Those regulations reserved section 611.91 because it was not clear whether a fishery management plan would be prepared in time to replace the PMP then in effect. It has since been decided to renew the PMP for Tanner crab. The notice of availability of the supplementary environmental impact statement was published in the FEDERAL REGISTER (42 FR 44569) on September 6, 1977. These regulations contain the conditions and restrictions pertaining to all foreign fishing for snow (Tanner) crabs in the Bering Sea.

The important features of these regulations are that foreign fishing must be conducted north of a line drawn along 58° N. latitude and west of a line

drawn along 164° W. longitude. The total allowable level of foreign fishing is 15,000 metric tons of snow (Tanner) crabs in the authorized area.

There are two different kinds of fisheries conducted by foreign fishermen. One is the mothership type where catcher boats deliver their catch to a central processing vessel. The other is based on independent combination catcher-processing vessels which operate individually. Both fisheries are accommodated by these regulations.

NOTE.—The appropriate amended Environmental Impact Statements have been filed with the Environmental Protection Agency. The Department of Commerce has determined that this document does contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949, and OMB Circular A-107, and that one has been filed with the Department.

The Assistant Administrator for Fisheries finds that publication of proposed rulemaking is impractical, unnecessary, and contrary to the public interest, and involves a foreign affairs function of the United States. The Assistant Administrator further finds that all persons affected by these regulations have had actual notice of these regulations.

Signed at Washington, D.C., this 8th day of March 1978.

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

50 CFR Part 611 is amended as follows:

§ 611.20 [Amended]

1. In § 611.20 Table I, the second and third entries from the bottom are deleted and the following entries are inserted: 017 and 018 * * * Tanner crab * * * Bering Sea * * * 15,000 * * * DO 099 * * * Other species * * * Aleutians and Bering Sea * * * 93,600 * * * DO

2. Section 611.91 is added to read as follows:

§ 611.91 Tanner crab fishery.

(a) *Purpose.* This section regulates foreign fishing for snow (Tanner) crabs (*Chionoecetes bairdi* and *Chionoecetes opilio*) in the Bering Sea.

(b) *Authorized fishery.* (1) *TALFF.* The 1978 TALFF for snow (Tanner) crab is 15,000 metric tons. (2) *National allocations.* Foreign vessels may engage in the fishery for snow (Tanner) crab in accordance with TALFF set forth in paragraph (b)(1) of this section and the following national allocations:

(i) Japan: 15,000 metric tons.

(c) *General restrictions.* No foreign fishing vessel may retain any female or soft shell snow (Tanner) crab. All female or soft shell crabs shall be immediately returned to the sea in a

manner which minimizes handling mortality, and in accordance with § 611.13.

(d) *Gear restrictions.* It shall be unlawful for a foreign fishing vessel fishing for snow (Tanner) crab to use gear other than pots. A pot is defined as a portable structure designed and constructed to capture and retain crabs alive in the water.

(e) *Open area.* Foreign fishing vessels may fish for snow (Tanner) crab in the Bering Sea, except as restricted in § 611.91(f).

(f) *Closed area.* No foreign fishing vessel may fish for snow (Tanner) crab:

(1) Within 12 nautical miles of the baseline used to measure the U.S. territorial sea; or (2) south of a straight line drawn along 58° N. latitude, and east of a straight line drawn along 164° W. longitude.

(g) *Processing.* No foreign fishing vessel operating with a factory ship may process crabs. (The permits for such vessels will specifically exclude from the authorized activities the processing of crabs.) All crabs taken by such vessels must be processed solely by a factory ship permitted in the crab fishery.

(h) *Loading and off-loading.* Crabs must be taken aboard factory ships in a manner in which an observer can verify the total weight of crabs taken aboard. Crabs off-loaded within the fishery conservation zone from fishing vessels not operating with a factory ship must be transferred in a manner in which an observer can verify the total weight of crabs off-loaded.

(i) *Pre-departure inspection.* No foreign crab catching vessels, other than those operating with a factory ship, may depart from the fishing area until its catch of crabs onboard is checked by an observer, or an authorized officer.

(j) *Additional reports.* (1) *Daily reports:* Foreign crab catching vessels, other than those operating with a factory ship, shall report daily to the Regional Director:

(i) Its 12:00 noon (GMT) position,

(ii) The preceding day's catch by species (*C. bairdi*, *C. opilio*, and hybrids) and

(iii) Its cumulative catch.

(2) *Weekly catch report.* (i) The weekly catch report (required by Section 611.9(e)) shall be submitted to the Regional Director within 6 days following each 7 day fishing period, and contain additional information concerning:

(A) Effort in total pot lifts during the 7 day period, and

(B) Catch in metric tons and the number of crabs of the type *C. opilio* and *C. bairdi* caught during the 7 day period. Hybrids shall be reported as *C. opilio*.

(ii) The requirement of § 611.9(e)(1) that the weekly catch report be on a

vessel-by-vessel basis is waived for vessels operating with a factory ship. The required data for such vessels may be consolidated and reported by factory ship.

(3) *Annual report.* Each nation whose vessels engage in this fishery shall report by May 30, of the following year annual catch and effort statistics as follows: Effort in pots hauled and hours pots soaked; catch in metric tons, and the number of snow (Tanner) crabs of the species *C. opilio*, *C. bairdi*, and hybrid. Each of these requirements is to be supplied by vessel class, by month by $\frac{1}{2}^{\circ}$ (lat.) by 1° (long.) statistical area by the following species grouping: *C. bairdi*, *C. opilio*.

[FR Doc. 78-6602 Filed 3-13-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-30]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Chapter II]

FOOD STAMP PROGRAM

Working Draft of Proposed Food Stamp Rulemaking

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of availability of working draft of proposed rulemaking.

SUMMARY: The Food and Nutrition Service is advising interested parties that a working draft of proposed regulations to implement portions of the Food Stamp Act of 1977, Pub. L. 95-113, 7 U.S.C. 2011-2027, is available upon written request.

ADDRESS: Interested parties should write to Nancy Snyder, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, telephone 202-447-8982.

SUPPLEMENTARY INFORMATION: The working draft of proposed regulations was prepared for use by participants in the American Public Welfare Association National Food Stamp Conference held January 29-February 1, 1978 in San Francisco, Calif. The draft was used as a reference to assist conference attendees to understand the issues to be addressed in the conference and, later, in proposed rulemaking. The policies contained in the draft represent USDA thinking as of January 18, 1978 (the date of publication of the draft) and may be revised prior to publication of proposed rulemaking. The draft has not been formally reviewed for legal sufficiency by the Department's Office of the General Counsel.

The Food and Nutrition Service plans to publish proposed regulations in the very near future. In order to expedite publication of proposed regulations, the Food and Nutrition Service will be unable to review written comments on the working draft. In accordance with the Administrative Procedures Act, written comments are invit-

ed upon publication of proposed rulemaking.

Some interested parties have contacted FNS in the past few weeks by telephone requesting copies of the draft proposed regulations. However, the draft was originally printed in a very small quantity and therefore was not available to those who called. Unfortunately, no record was made of the callers' identities. Anyone who contacted FNS to obtain a draft and who still wishes to receive a copy should write in at the address above. A copy of the draft will be sent promptly.

Dated: March 9, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-6756 Filed 3-13-78; 8:45 am]

[3410-05]

Agricultural Stabilization and Conservation Service

[7 CFR Part 760]

INDEMNITY PAYMENT PROGRAMS

Subpart—Beekeeper Indemnity Payment Program (1978-1981)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Stabilization and Conservation Service is considering revising the beekeeper indemnity payment program regulations to improve administration of the program and to update the regulations to cover the 4-year extension of the program as provided in the Food and Agriculture Act of 1977.

DATES: To be assured of consideration, comments should be received by or on April 13, 1978.

ADDRESSES: Emergency and Indemnity Payments Division, ASCS, USDA, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert M. Cook (ASCS), telephone 202-447-7997.

SUPPLEMENTARY INFORMATION: The Beekeeper Indemnity Payment Program is carried out pursuant to

section 804 of the Agriculture Act of 1970, 84 Stat. 1382, 7 U.S.C. 135b, as amended by the Agriculture and Consumer Protection Act of 1973, 87 Stat. 237, 7 U.S.C. 135b, and the Food and Agriculture Act of 1977, 91 Stat. 921, 7 U.S.C. 135b. This proposed revision would:

1. Eliminate the provision for making payments on moderately damaged colonies. Payments would be limited to colonies destroyed and to colonies severely damaged.

2. Change the period during which no payment will be made for any loss of queen nuclei from between August 15 and December 31 each year to between July 1 and December 31 each year.

3. Update the program regulations to cover the four year extension of the program as provided in the Food and Agriculture Act of 1977.

4. Require inspections for losses to be made by an ASCS inspector. The public is invited to submit written comments, suggestions, or objections regarding the proposed amendment to the above address. Persons submitting comments, suggestions, or objections regarding the proposed amendment should include their name and address and should give reasons for any suggested changes in the proposal. Copies of all written communications received will be available for examination by interested persons in room 4095 South Building, USDA, during regular business hours (8:15 am to 4:45 pm).

In accordance with the above, it is proposed to amend 7 CFR Part 760 by revising subpart—Beekeeper Indemnity Payment Program to read as follows:

Subpart—Beekeeper Indemnity Payment Program (1978-1981)

PROGRAM OPERATIONS

Sec.	
760.100	Administration.
760.101	Definitions.
760.102	Indemnity payment.
760.103	Requirements for eligibility.
760.104	Application for payment.
760.105	Proving loss of bees.
760.106	Proving utilization of pesticides.
760.107	Proving nonfault.
760.108	Proving reasonable care.
760.109	Computation of payment.
760.110	Appeals.
760.111	Assignments.
760.112	Instructions.
760.113	Limitation of authority.
760.114	Estates and trusts; minors.
760.115	Setoffs.
760.116	Overdisbursement.

Sec.

760.117 Death, incompetency, or disappearance.

760.118 Records, and inspection thereof.

AUTHORITY: Sec. 804, Pub. L. 91-524, 84 Stat. 1382, as amended by Sec. 1 (27), Pub. L. 93-86, 87 Stat. 237, and Sec. 207, Pub. L. 95-113, 91 Stat. 931 (7 U.S.C. 135b).

PROGRAM OPERATIONS

§ 760.100 Administration.

The beekeeper indemnity payment program is administered by the Agricultural Stabilization and Conservation Service under the supervision and direction of the Deputy Administrator, State and County Operations. In the field, the program is carried out by the State and county ASC committees.

§ 760.101 Definitions.

For the purpose of this subpart, the following terms shall have the meaning specified:

(a) "Apiary" means the place where bees are kept, commonly known as a "bee yard".

(b) "Application period" means any period with respect to which application for payment is made beginning not earlier than January 1, 1978, and ending not later than September 30, 1981.

(c) "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(d) "Bee" means the honeybee, *Apis mellifera* L.

(e) "Beekeeper" means a person who owns and maintains colonies of bees.

(f) "Colony" means a community of bees living together in a hive with a queen.

(g) "Colony destroyed" means a colony in which the kill of bees by pesticides was so severe that the colony will not survive.

(h) "Colony severely damaged" means a colony in which the field bees were killed by pesticides and the colony suffered damage to the brood, but the colony will survive.

(i) "County committee" means the Agricultural Stabilization and Conservation County Committee.

(j) "DASCO" means the Deputy Administrator, State and County Operations, ASCS.

(k) "Person" means an individual, partnership, association, corporation, trust, estate, or other legal entity.

(l) "Pesticide" means an economic poison which was registered pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135-135k), and approved for use by the Federal Government.

(m) "Queen nucleus" means a small colony of bees maintained solely for the purpose of producing queen bees.

(n) "Queen nucleus destroyed" means a queen nucleus in which the kill of bees by pesticides was so severe that the queen nucleus did not survive.

(o) "State committee" means the Agricultural Stabilization and Conservation State Committee.

§ 760.102 Indemnity payment.

An indemnity payment computed in accordance with § 760.109 will be made under this subpart to a beekeeper who has suffered a severe loss of bees as a result of the application of pesticides and who establishes to the satisfaction of the county committee that all requirements of this subpart have been met.

§ 760.103 Requirements for eligibility.

A beekeeper, to be eligible for an indemnity payment, shall file an application for payment with the county committee and establish to the satisfaction of the county committee all of the following:

(1) That during the application period, a severe loss of bees was suffered.

(2) That the loss of bees was caused solely by the use of pesticides near or adjacent to the apiary, and occurred through no fault of the beekeeper.

(3) That if the beekeeper used pesticides, such use of pesticides in no way contributed to the loss of the bees;

(4) That if the beekeeper had advance knowledge that pesticides were going to be used near or adjacent to the apiary, the beekeeper took reasonable precautions to protect the bees from exposure to pesticides, or, if the beekeeper took no such precautions, that the failure to do so was reasonable under the circumstances;

(5) That after exposure of the bees to pesticides, the beekeeper took reasonable action to minimize the bee loss to the extent that such action was feasible.

(6) That at or about the time a bee loss inspection was first requested during the calendar year, the beekeeper submitted to the county ASCS office, where the headquarters are located, a signed statement specifying the number of colonies and queen nuclei maintained at each apiary and the location of each apiary: *Provided*, however, that this statement was subsequently amended to satisfactorily explain any changes made in such numbers between the date of the original statement and the date of any subsequent inspection of the apiary. The number of colonies and queen nuclei specified in this statement, as amended, shall be the maximum number for which the beekeeper will be eligible to receive an indemnity payment.

§ 760.104 Application for payment.

(a) The beekeeper or a legal representative of the beekeeper shall complete, sign, and file an application for payment, Form ASCS-448 with the county ASCS office serving the area where the beekeeper's headquarters is located.

(b) Application for payment shall be filed not later than April 1 following the year in which the losses occurred. The application shall be postmarked not later than midnight April 1 of such year. An application may be filed after the closing date if the county committee determines that the beekeeper was prevented from filing by such date because of illness or other reason beyond the beekeeper's control. The beekeeper should file only one application per year covering all losses occurring during such calendar year.

(c) The application for payment shall be accompanied by the information required by §§ 760.105-760.109, and such other information as may be reasonably required to enable the county committee to determine the eligibility of the beekeeper to receive an indemnity payment.

§ 760.105 Proving loss of bees.

(a) A beekeeper shall submit to the county committee an executed Form ASCS-448, specifying the number of colonies destroyed and the number of colonies severely damaged; the number of queen nuclei destroyed; and evidence of the loss of bees specified in subparagraph (b) of this section.

(b) Such evidence shall be a written report by an ASCS inspector who has observed the loss. Any report under this paragraph shall:

(1) Describe the losses of bees which have been observed by the inspector.

(2) Give full information regarding the loss, including but not limited to the following:

(i) Extent of loss (number of colonies destroyed or severely damaged, and number of queen nuclei destroyed);

(ii) Approximate date of loss;

(iii) Location of apiary.

(3) Be completed, signed, and dated within a reasonable time following the loss.

(c) If the report required by paragraph (b) of this section is based on inspections of only a sample of the colonies in an apiary, the following guidelines shall be substantially complied with in selecting the samples of colonies to be examined:

(1) Count the colonies in the apiary.

(2) Select the colonies to be included in the sample from all areas of the apiary so as to assure that the sample is representative of conditions in the apiary as a whole. Colonies to be inspected should be selected at random to assure an accurate determination of the extent of loss in the apiary.

(3) Open and thoroughly inspect at least the specified number of colonies for the applicable size of apiary. Apiary of 1-15 colonies, all colonies. Apiary of 16-75 colonies, 15 colonies. Apiary of more than 75 colonies, 20 percent of the colonies.

(d) No change in the degree of loss of bees which occurs after October 1

each year will be recognized and no payment will be made for any loss of queen nuclei which occurs between July 1 and December 31 each year.

§ 760.106 Proving utilization of pesticides.

A beekeeper shall submit to the county committee evidence that the loss of bees occurred as a result of the utilization of pesticides near or adjacent to the apiary. Such evidence may include, but is not limited to:

(a) Reports of chemical tests performed on the bees which were killed.

(b) Records, signed statements, or official reports of pesticide applicators or farmers who either applied pesticides or contracted for their application within the normal forage range of the beekeeper's bees.

(c) Records, signed statements, or official reports of representatives of local canneries or pesticide vendors who supplied pesticides which were used within the normal forage range of the beekeeper's bees.

(d) Records, signed statements, or official reports of local, State or Federal governmental agencies or colleges and universities having verified information with respect to the application of pesticides in the locality where the beekeeper's apiaries were located.

(e) Certification by the person that inspected the bees for pesticide damage that the loss resulted solely from pesticides and not caused by disease, starvation, or neglect.

§ 760.107 Proving non-fault.

A beekeeper shall submit to the county committee (a) a statement signed by the beekeeper stating whether the beekeeper used pesticides, and (b) if the beekeeper did use pesticides, evidence that such use thereof in no way contributed to the loss of the bees.

§ 760.108 Proving reasonable care.

A beekeeper shall submit to the county committee evidence that reasonable care was exercised by the beekeeper in connection with the use of pesticides by others. Such evidence shall consist of, but is not limited to, written statements signed by the beekeeper:

(a) Stating whether the beekeeper received advance notice that pesticides were going to be applied near or adjacent to the apiary.

(b) Describing what actions the beekeeper took (if the beekeeper received such notice) to protect the bees from pesticides, or why there was no suitable action that the beekeeper could have taken.

(c) Describing what steps were taken after exposure of the bees to pesticides, to improve the condition of the colonies and to reduce the extent of bee loss, or why there were no suitable steps that could have been taken.

§ 760.109 Computation of payment.

(a) The county committee will determine the amount of the indemnity payment due a beekeeper whom it has determined to be in compliance with the terms and conditions of this subpart. Such payment shall be in the amount of the beekeeper's net loss from losses of bees resulting from application of pesticides, less any indemnification for such loss or payment of any nature which the beekeeper has received through insurance, legal action, or otherwise. The beekeeper's indemnity payment will be computed on the basis of the following rates for losses which occurred since January 1, 1978:

(1) \$22.50 for each colony destroyed,

(2) \$15.00 for each colony severely damaged, and

(3) \$7.50 for each queen nucleus destroyed.

(b) Only one payment will be made on a colony for losses occurring during a given calendar year. If more than one loss is suffered by a colony, the beekeeper may claim payment on the most severe loss suffered.

§ 760.110 Appeals.

The Appeal Regulations issued by the Administrator, ASCS, Part 780 of this chapter, shall be applicable to appeals by beekeepers from determinations made pursuant to the regulations in this subpart.

§ 760.111 Assignments.

A beekeeper shall not assign any indemnity payment due or to come due under the regulations in this subpart. Any assignment or attempted assignment of any indemnity payment due or to come due under this subpart shall be null and void.

§ 760.112 Instructions.

DASCO shall cause to be prepared such forms and instructions as are necessary for carrying out the regulations in this subpart. Beekeepers may obtain such forms, including the following, from the county ASCS office: ASCS-448-Beekeeper Indemnity Payment Program Report of Loss on a Colony Basis and Application for Payment.

§ 760.113 Limitation of authority.

(a) County executive directors and State and county committees do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(b) The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee when such action has not been taken by the county committee. The State committee may also (1) correct, or require a county committee to correct, any action taken by such county commit-

tee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the regulations in this subpart.

(c) No delegation herein to a State or county committee shall preclude DASCO or a designee of DASCO from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee.

§ 760.114 Estates and trusts; minors.

(a) A receiver of an insolvent debtor's estate and the trustee of a trust estate shall, for the purposes of this subpart, be considered to represent an insolvent beekeeper and the beneficiaries of a trust, respectively, and the honeybee losses of the receiver or trustee shall be considered to be the honeybee losses of the persons so represented. Program documents executed by any such person will be accepted only if such person has authority to sign the applicable documents, and such documents are otherwise legally valid.

(b) A minor who is a beekeeper shall be eligible for indemnity payments only if the minor meets one of the following requirements: (1) The rights of majority have been conferred on the minor by court proceedings or by statute; (2) a guardian has been appointed to manage the minor's property and the applicable program documents are signed by the guardian; or (3) a bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 760.115 Setoffs.

(a) If any indebtedness of the beekeeper to any agency of the United States is listed on the county claims control record, indemnity payments due the beekeeper under the regulations in this part shall be applied, as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(b) Compliance with the provisions of this section shall not deprive the beekeeper of any right such person would otherwise have to contest the validity of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 760.116 Overdisbursement.

A beekeeper shall be personally liable for repayment of the amount by which any indemnity payment disbursed to the beekeeper exceeds the amount of such payment authorized under the regulations in this subpart.

§ 760.117 Death, incompetency, or disappearance.

In the case of the death, incompetency, or disappearance of any bee-

keeper who is entitled to an indemnity payment, such payment may be made to the person or persons specified in the regulations contained in Part 707 of this chapter. The persons requesting such payment shall file Forms ASCS-325, "Application For Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," as provided in that part.

§ 760.118 Records, and inspection thereof.

The beekeeper, and any other person who furnished information to such beekeeper or to the county committee to enable the beekeeper to receive an indemnity payment under this subpart, shall maintain any books, records, and accounts supporting any information furnished to the county committee, for 3 years following the end of the year during which the application for payment was filed. The beekeeper or any other person who furnished such information to the beekeeper or to the county committee shall permit authorized representatives of the Department of Agriculture and the General Accounting Office, during regular business hours, to inspect, examine, and make copies of such books, records, and accounts.

NOTE.—The reporting and/or recordkeeping requirement contained herein has been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: March 14, 1978.

Signed at Washington, D.C. on March 3, 1978.

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

[FR Doc. 78-6420 Filed 3-13-78; 8:45 am]

[3410-15]

Rural Electrification Administration

[7 CFR Part 1701]

NONDISCRIMINATION AMONG BENEFICIARIES OF REA PROGRAMS

Revision of REA Bulletin

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 20-19: 320-19, "Nondiscrimination Among Beneficiaries of REA Programs," including REA Form 268. This REA Bulletin sets forth REA policy on nondiscrimination and delineates the responsibilities of REA borrowers for compliance with Title VI of

the Civil Rights Act of 1964. The effect of the revision is to bring up to date REA regulations pertaining to the administration of Title VI of the Civil Rights Act of 1964, as applicable in REA programs. On issuance of REA Bulletin 20-19: 320-19, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than: April 13, 1978.

ADDRESS: Interested persons may submit written data, views, or comments to the REA Civil Rights Coordinator, Room 4313—South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Civil Rights Coordinator during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Dr. Henry L. Taylor, REA Civil Rights Coordinator, Rural Electrification Administration, Room 4313—South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-5981.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et. seq.), REA proposes to revise the current edition of REA Bulletin 20-19: 320-19, issued June 11, 1974, including the 4-74 edition of REA Form 268. A summary of the proposed substantive changes to this Bulletin is as follows:

1. Promotion of minority representation on planning and advisory bodies of cooperative enterprises.
2. Use of revised designation of racial/ethnic categories.
3. Extension of due date for annual submission of REA Form 268 to REA to April 30 of each year, instead of January 31.
4. Promotion of greater participation by minority group consumers and subscribers through program information and members' participation.

A copy of the proposed revised REA Bulletin 20-19: 320-19, including REA Form 268, may be secured in person or by written request from the REA Civil Rights Coordinator.

Dated: March 9, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-6581 Filed 3-13-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

[7 CFR Part 2853]

MEATS, PREPARED MEATS, AND MEAT PRODUCTS

Grading, Certification, and Standards; Correction.

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Correction.

SUMMARY: In FR Doc. 78-5837, appearing at page 9284 in the issue for Tuesday, March 7, 1978, in the first column, 4 under Supplementary Information, should read as follows:

4. March 28, 1978, Atlanta, Ga. 30303, Federal Office Building, Room 556, 275 Peachtree Street NE.

Dated: March 8, 1978.

ROBERT ANGELOTTI,
Administrator Food Safety
and Quality Service.

[FR Doc. 78-6479 Filed 3-13-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

[9 CFR Part 97]

IMPORTS AND EXPORTS

Overtime Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to clarify the regulations in Part 97—Overtime Services Relating to Imports and Exports—and to provide for reimbursement to the Department for costs of overtime services provided in conjunction with the inspection and handling of intransit shipments of livestock at approved intransit facilities. This action is needed to provide overtime services for shipments of livestock which are intransit through the United States. The effect of this action would be to provide the shipper of animals transiting the United States, which are subject to inspection or certification, with the services of an employee of Veterinary Services at hours outside the regular tour of duty.

DATE: Comments on or before April 13, 1978.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 815, 6505 Belcrest

Road, Hyattsville, Md. 20782, 301-436-8170.

FOR FURTHER INFORMATION CONTACT:

Dr. David E. Herrick, USDA, APHIS, VS, room 815, Federal Building, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

The regulations in 9 CFR, Part 97 provide for overtime work at laboratories, border ports, ocean ports, and airports. Part 92, § 92.2(d), provides an exception to the regulations whereby certain eligible animals from a foreign country en route for export to a third country may be permitted to transit the United States under less restrictive requirements than would apply if such animals were to be imported into the United States. Since the animals in such shipments do not comply with United States import requirements, the shipper must obtain a prior permit and the animals in such shipments must be maintained in continuous confinement on the transporting carrier or be unloaded into a holding facility approved in advance by the Deputy Administrator.

These restrictions are necessary in order to insure that animals in transit will not endanger the livestock of the United States. To insure this, it is necessary that the unloading and handling of intransit shipments of animals be under the direct supervision of an employee of Veterinary Services.

Revised brucellosis requirements for cattle from Canada have resulted in an increase in intransit truck shipment of Canadian cattle entering the United States at land border ports en route to United States ports of export. Since many of these shipments are for long distances, shippers have requested authority for the animals to be unloaded at approved intransit facilities for feed, water, and rest while in transit. It is neither practical nor humane to require these animals to be confined to the transporting carrier, nor is it practical to require the shipment to arrive at an approved facility within scheduled hours of duty in order to provide the necessary inspection. 7 U.S.C. 2260 provides for the reimbursement to the Department for the costs associated with the Department's employees performing inspection and quarantine services, including costs for overtime services, relating to imports and exports at such rates as may be determined. The Department has consistently construed the term "import and export" under the Animal Quarantine Laws to include intransit movements, where an animal is entering into, passing through, and exiting from the United States during the same movement. Consequently, it is believed that the Department may be reimbursed for costs associated with the inspection of animals in transit through the United States.

The Department believes that the rules established in Part 97 would be applicable to services rendered at such intransit holding facilities.

Notice is hereby given in accordance with the provisions of this Part 97 issued under 64 Stat. 461; 7 U.S.C. 2260; 21 U.S.C. 101-105, that the Animal and Plant Health Inspection Service is considering amending Part 97, Title 9, Code of Federal Regulations.

Accordingly, Part 97, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 97.1, the section heading would be amended to read:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, airports¹ and intransit facilities.

2. In § 97.1(b), a new paragraph (3) would be added to read:

(3) The term "intransit facility" means a facility specified in § 92.2(d)(1)(ii) of the regulations.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, room 815, Hyattsville, Md. 20782, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 8th day of March 1978.

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

J. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-6542 Filed 3-13-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

[10 CFR Part 209]

INTERNATIONAL VOLUNTARY AGREEMENTS

Recordkeeping Requirements; Cancellation of Hearing

AGENCY: Department of Energy.

¹For designated ports of entry for certain animals, animal semen, poultry, and hatching eggs see 9 CFR 92.1 through 92.3; and for designated ports of entry for certain purebred animals see 9 CFR 151.1 through 151.3.

ACTION: Cancellation of hearing.

SUMMARY: On February 15, 1978, the Department of Energy (DOE) published proposed amendments to 10 CFR Part 209, regulations concerning recordkeeping requirements relating to international voluntary agreements (43 FR 6608). The public hearing on this proposal, as scheduled in the notice was to be held on March 10, 1978. However, since no requests to speak at this hearing were received, the hearing is hereby cancelled.

Issued in Washington, D.C., March 7, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration,
Department of Energy.

[FR Doc. 78-6521 Filed 3-13-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket 9081]

LEVI STRAUSS & CO.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a San Francisco, Calif. clothing manufacturer to cease establishing and enforcing resale price agreements; soliciting the identities of recalcitrant dealers; and threatening, penalizing or terminating such dealerships. Further, the firm would be prohibited from unfairly restricting the use of its trademark; engaging in unlawful tie-in practices; and disseminating any materials suggesting resale prices for five years.

DATE: Comments must be received on or before May 11, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15

U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

LEVI STRAUSS AND CO., A CORPORATION

DOCKET NO. 9081; AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The agreement herein, by and between Levi Strauss & Co., a corporation, by its duly authorized officer, hereafter referred to as respondent, and their attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Levi Strauss & Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 2 Embarcadero Center, in the City of San Francisco, State of California.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violations of Section 5 of the Federal Trade Commission Act, and have filed answers to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with related materials pursuant to Rule 3.25(f), will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its ac-

ceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding. The Commission may, at any time pending issue of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may without further notice to the respondent (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or to contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

For the purposes of this order, the following definitions shall apply:

"Product" is defined as any item of wearing apparel and any related accessory which is manufactured, offered for sale or sold by Levi Strauss & Co.

"Dealer" is defined as any person, partnership, corporation, or firm authorized by Levi Strauss & Co. to sell any product.

"Prospective dealer" is defined as any person, partnership, corporation, or firm which may desire to purchase any product from Levi Strauss & Co., but has not been accepted as a dealer.

It is ordered, That respondent Levi Strauss & Co., a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or indirectly, or through any corporation, subsidiary, division, or other device, in connection with the manufacture, offering for sale, sale, distribution, or advertising of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

I

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the price at which any dealer may advertise, promote, offer for sale, or sell any product at retail.

2. Establishing, exacting any assurance to comply with, continuing, enforcing, or announcing the terms of any contract, agreement, understanding, or arrangement with any dealer or prospective dealer which fixes, establishes, maintains, or enforces the price at which any product is to be sold or advertised at retail by such dealer or prospective dealer.

3. Securing or attempting to secure any promise or assurance from any dealer or prospective dealer regarding the retail price at which such dealer or prospective dealer will or may advertise or sell any product, or requiring or requesting any dealer or prospective dealer to obtain approval from respondent for any retail price at which such dealer or prospective dealer may or will advertise or sell any product.

4. Threatening to withhold or withholding earned cooperative advertising credits or allowances from any dealer or limiting or restricting the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify because of the retail price at which said dealer advertises or sells any product.

5. Requiring or soliciting any dealer or prospective dealer to report the identity of any dealer, prospective dealer, person or firm because of the retail price at which such dealer, prospective dealer, person, or firm is advertising, offering to sell, or selling any product; or acting on any reports or information so obtained by threatening, intimidating, or coercing any dealer, prospective dealer, person, or firm, or by terminating any dealer.

6. Conducting any surveillance program to determine whether any dealer, prospective dealer, person, or firm is advertising, offering for sale or selling any product at a retail price other than that which respondent has established or suggested, where such surveillance program is conducted to fix, maintain, control, or enforce the retail price at which any product is sold or advertised.

7. Terminating or taking any other action to restrict, prevent, or limit the

sale of any product by any dealer because of the retail price at which said dealer has sold, is selling, or is suspected of selling such product.

8. Terminating or taking any other action to restrict, prevent, or limit the sale of any product by any dealer because of the retail price at which said dealer has advertised, is advertising, or is suspected of advertising any product, whether or not in conjunction with any of respondent's trademarks.

9. Fixing, establishing, controlling, or maintaining the retail price at which any product is advertised, promoted, offered for sale, or sold, by means of any of the following:

a. Threatening or coercing any person, firm, or prospective dealer because of the retail price at which said person, firm or prospective dealer, has sold, is selling or is suspected of selling any product.

b. Threatening or coercing any person, firm, or prospective dealer, because of the retail price at which said person, firm, or prospective dealer has advertised, is advertising or is suspected of advertising any product, whether or not in conjunction with any of respondent's trademarks.

c. Controlling or restricting in any manner, including by termination of any dealer, any customer or class of customers to whom any dealer may sell any product, where such control or restriction is exercised because of the retail price at which the customer or class of customers to whom said product has been resold has advertised, promoted, offered for sale or sold such product.

II

Publishing, disseminating, circulating, or providing, by any means, any suggested retail price for a period of five (5) years after the date on which this order becomes final; *Provided, however*, That, if, after said five (5) year period, respondent suggests any retail price, respondent shall:

a. Clearly and conspicuously state on any material on which such suggested price is stated that such price is suggested only.

b. Mail to all dealers a letter stating that no dealer is obligated to adhere to any suggested retail price and that such suggested retail price is advisory only.

III

1. Restricting any dealer, prospective dealer, person, or firm who purchases any product which respondent has denominated irregular or second quality from offering for sale or advertising such products as "second quality or irregular products manufactured by Levi Strauss & Co."

2. Restricting any dealer, prospective dealer, person, or firm who has purchased any product which respondent

has denominated "closeout" and which bears any of respondent's trademarks affixed thereto from using any trademark so affixed in the sale or advertising of such product.

3. Nothing contained in paragraph III of this Order shall affect respondent's rights in law and equity respecting the protection of respondent's trademarks in conjunction with the offer for sale or advertising of any product.

IV

It is further ordered, That respondent shall forthwith cease and desist from:

1. Engaging in any unlawful tie-in selling practice.

2. Establishing or administering an allocation program under which a dealer's entitlement to any product style to be allocated, other than a product style which such dealer has not previously purchased, is dependent upon the volume of such dealer's purchases of a different product style or a group of different product styles.

V

It is further ordered, That respondent shall:

1. Within thirty (30) days after service of this order, mail under separate cover a copy of this order and a copy of the enclosure set forth in the attached exhibit A to every present dealer. An affidavit of mailing shall be sworn to by an official of respondent verifying that said mailing of the order and the enclosure in the attached exhibit A was completed.

2. Mail under separate cover a copy of this Order and a copy of the enclosure set forth in the attached exhibit A to any person partnership, corporation, or firm that within five (5) years after service of this order becomes a new dealer.

3. Within thirty (30) days after service of this order, distribute a copy of this order to each of its operating divisions and subsidiaries and to all officers, sales personnel, sales representatives, and advertising agencies retained by respondent and secure from each such entity or person a signed statement acknowledging receipt of said order.

VI

It is further ordered, That respondent, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

VII

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed

change in the respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the order.

EXHIBIT A

DEAR LEVI STRAUSS RETAILER: Levi Strauss & Co. has consented to the entry of an Order by the Federal Trade Commission. In connection therewith Levi Strauss & Co. has agreed to send you this letter describing the provisions contained in the Order. A copy of the Order is enclosed.

The Order provides, among other things, as follows:

1. With respect to retail prices:

a. You are free to sell and advertise products purchased from Levi Strauss & Co. at any price you choose.

b. Levi Strauss & Co. cannot take any action against you, including termination, because of the retail price at which you sell or advertise its products.

c. Levi Strauss & Co. cannot suggest retail prices for any product until (five years from date on which the Order becomes final).

d. You are free to participate in any cooperative advertising program sponsored by Levi Strauss & Co. for which you otherwise qualify and to receive any advertising credit or allowance allowed thereunder regardless of the price at which you advertise any product from Levi Strauss & Co.

e. You may use any of Levi Strauss & Co.'s trademarks in a lawful manner in conjunction with the advertising of any first-line products at any price you choose. For example you may advertise any product bearing the "Levi's" trademark as "Levi's".

f. You may sell or advertise any Levi Strauss & Co. irregular or second quality merchandise as "irregular or second quality merchandise manufactured by Levi Strauss & Co." However, Levi Strauss & Co. reserves the right to restrict the use of its trademarks in connection with the sale or advertising of such merchandise.

g. In connection with the advertising or sale of Levi Strauss & Co. "close-outs," you may use, in a lawful manner, the trademarks, if any, affixed to such close-out products. You may also advertise or sell these products as "close-outs manufactured by Levi Strauss & Co."

h. Levi Strauss & Co. cannot control or restrict the customers to whom you or any other dealer may sell any product where such control or restriction is exercised because of the retail price at which the customer to whom said product has been resold is advertising or selling such product.

2. With respect to other sales practices:

a. Levi Strauss & Co. cannot engage in any unlawful tie-in selling practices.

b. If Levi Strauss & Co. places any product style on allocation, your allotment of such product style, other than a product style you have not previously purchased, will not be dependent upon the volume of your purchases of a different product style or a different group of product styles.

If you have any questions regarding the contents of this letter or the attached

Order, please contact Mr. _____ at Levi Strauss & Co.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

LEVI STRAUSS AND CO., DOCKET NO. 9081

The Federal Trade Commission has provisionally accepted an agreement containing a proposed consent order from Levi Strauss & Co., one of the world's largest manufacturers and distributors of men's, women's, and children's apparel. Final acceptance of the consent agreement would resolve the litigation between the parties which commenced with the issuance of the Commission's complaint in May 1976.

The proposed consent order and material submitted by Levi Strauss & Co. to the Commission that is reasonably related to the merits of the order and is not exempt from disclosure under the Freedom of Information Act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Levi Strauss & Co. has engaged in the following anticompetitive practices:

- (1) Fixing the resale prices at which its products may be sold or advertised;
- (2) Fixing the resale prices at which its products may be sold or advertised by preventing its dealers from reselling Levi Strauss & Co. products to retailers not authorized by Levi Strauss & Co. to sell its products;
- (3) Refusing to sell its blue denim jeans to dealers unless they purchase other Levi Strauss & Co. products; and
- (4) Administering an allocation program for blue denim jeans pursuant to which it refuses to incur a dealer's allotment of blue denim jeans unless he purchases other Levi Strauss & Co. products.

The consent agreement provides as follows:

- (1) With respect to retail prices:
 - (a) Levi Strauss & Co. cannot fix or otherwise control the retail prices at which its products are sold or advertised.
 - (b) Levi Strauss & Co. cannot take any action against any dealer, including termination, because of the retail price at which he sells or advertises any product.
 - (c) Levi Strauss & Co. cannot suggest retail prices for any product for a period of five years from the date on which this order would become final.

(d) Dealers are free to participate in any cooperative advertising program sponsored by Levi Strauss & Co. for which they otherwise qualify and to receive any advertising credit or allowance authorized thereunder regardless of the price at which they advertise any product.

(e) Dealers may use any of Levi Strauss & Co.'s trademarks in a lawful manner in conjunction with the advertising of any first-line products at any price they choose. For example they may advertise any product bearing the "Levi's®" trademark as "Levi's®."

(f) Dealers may sell or advertise any Levi Strauss & Co. irregular or second quality merchandise as "irregular or second quality merchandise manufactured by Levi Strauss & Co." However, Levi Strauss & Co. reserves the right to restrict the use of its trademarks in connection with the sale or advertising of such merchandise.

(g) In connection with the advertising or sale of Levi Strauss & Co. "close-outs," dealers may use, in a lawful manner, the trademarks, if any, affixed to such close-out products. They may also advertise or sell these products as "close-outs manufactured by Levi Strauss & Co."

(h) Levi Strauss & Co. cannot control or restrict the customers to whom any dealer may sell any product where such control or restriction is exercised because of the retail price at which the customer to whom said product has been resold is advertising or selling such product.

(2) With respect to other sales practices:

(a) Levi Strauss & Co. cannot engage in any unlawful tie-in selling practices.

(b) If Levi Strauss & Co. places any product style on allocation, a dealer's allotment of such product style, other than a product style he has not previously purchased, will not be dependent upon the volume of his purchases of a different product style or a different group of product styles.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-6735 Filed 3-13-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1505]

REQUIREMENTS FOR ELECTRICALLY- OPERATED TOYS OR OTHER ELEC- TRICALLY-OPERATED ARTICLES IN- TENDED FOR USE BY CHILDREN

Proposed Amendments to Power Cord Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes amendments to the Requirements For Electrically-Operated Toys or Other Electrically-Operated Articles Intended for Use by Children (16 CFR Part 1505). The proposal would amend the regulation to allow the use of several types of acceptable cords with hand-held educational or hobby-type electrical products intended for heating, such as wood burning tools, rather than the one type cord currently specified in the regulation. The type cord used would depend on the weight of the product. In addition, the proposal would require that cords be no smaller than No. 18 AWG in conductor cross-sectional area for all electrically-operated toys or other electrically-operated articles intended for use by children to provide adequate short circuit protection against electric shock and fire.

DATES:

Written comment: Comments concerning the proposal must be received in the Office of the Secretary by May 15, 1978.

Effective date: The proposed effective date for the amendments is one year after publication in the FEDERAL REGISTER of any final regulation and would apply to subject products first introduced into commerce on and after the effective date.

ADDRESSES: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Elaine Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTAL INFORMATION: In the FEDERAL REGISTER of March 7, 1973 (38 FR 6138), the Food and Drug Administration issued regulations under the Federal Hazardous Substances Act (FHSA) to be effective September 30, 1973, banning electrical-

ly-operated toys or other electrically-operated articles intended for use by children not meeting certain safety-related requirements (21 CFR 191.9a(b)(1) and 21 CFR Part 191b). Effective May 14, 1973, functions under the FHSA were transferred to the Consumer Product Safety Commission (CPSC) by section 30(a) of the Consumer Product Safety Act, 15 U.S.C. 2079(a). The electrical toy regulations were revised and recodified by the CPSC as 16 CFR 1500.18(b)(1) and 16 CFR Part 1505. Prior to the effective date of the electrical toy regulations, the Toy Manufacturers of America (TMA), Petitioned the Commission, among other things, to amend section 1505.5(e)(5) of the regulations to permit hand-held educational or hobby-type products, such as woodburning tools, to utilize flexible electrical power cords of type SPT-1 instead of the type SP-2 specified in the regulation. TMA suggested that use of the flexible SPT-1 cord would permit a toy or other article intended for use by children to be placed on a flat surface more easily without tipping upward, which might be the case if the stiffer SP-2 cord were used.

In the FEDERAL REGISTER of January 23, 1974 (39 FR 2611), the Commission proposed an amendment to the electrical toy regulation (16 CFR 1505) along the lines suggested by TMA. The proposed amendment would have changed 16 CFR 1505.5(e)(5) to require the use of an SPT-1 type cord rather than an SP-2 type cord with hand-held educational or hobby-type products such as woodburning tools.

In response to the proposal, comments were received from TMA, Black & Decker Manufacturing Co., and the General Cable Corp. Based on these comments and further consideration of the issue by the Commission, the Commission determined that since several types of electrical cords are potentially suitable for use on hand-held educational or hobby-type electrical products, it should not restrict use to one particular type of cord. Therefore, the Commission withdraws the proposed amendment of January 23, 1974 to require the use of an SP-2 cord.

The Commission directed the staff to identify the types of cords that it believed to be suitable for use with educational and hobby-type electrical products intended to generate heat, such as woodburning sets, intended for use by children that would not present a tipping hazard.

The Commission staff considered the entire universe of electrical cords in at least 18 AWG that might reasonably be expected to be used with hand-held electrical products intended to generate heat. These cords were then divided into two groups depending on the weight of the appliance to which the cord would be attached as follows:

Weight of appliance (without cord)	Cord type ¹
1/2 lb (0.227 kg) and lighter	SP-1, SPT-1, HPD.
Heavier than 1/2 lb (0.227 kg).	SP-2, SPT-2, SV, SVO, SVT, SVTO, HPD, HPN, SJ, SJO, SJT, SJTO.

¹ Electrical cords are as defined in the "National Electrical Code," chapter 4, article 400, pages 230 to 241, (1978), published by the National Fire Protection Association.

The weight delineation above is based on that used by Underwriters Laboratories in its requirements for electrical heating appliances (UL 499).

The Commission's proposed amendment follows this weight delineation in prescribing the kind of cord that can be used with hand-held educational or hobby-type products intended for heating, such as woodburning tools. Since the very light weight hand-held appliance is frequently placed on a work surface between handling, a major consideration in the type cord the proposal would require on the light weight appliances is the flexibility and weight of the cord in relationship to the appliance so that the cord's influence on the appliance tipping over is minimized. Thus, SP-1, SPT-1 and HPD cords which would be required to be used with products weighing one-half pound or less are lighter in weight and more flexible than that would be permitted to be used with products weighing more than one-half pound.

The SP-1 and SPT-1 type cords, that would be required to be used on appliances weighing less than one-half pound, however, may not be used on heavier appliances because the insulation on these cords is not as thick as the insulation required on the cords used with heavier appliances. These cords would be permitted to be used with appliances weighing less than one-half pound only because they are lightweight and flexible and thus minimize the tipping over hazard presented by cords with thicker insulation. HPD type cords may be used with appliances in both categories because these cords are lightweight and flexible and also physically have thicker insulation (with an overall fabric braid) than SP-1 or SPT-1 cords.

This proposed amendment would apply only to hand-held educational or hobby-type products intended for heating, such as woodburning tools. The Commission believes this amendment is necessary if the electrical toys are not to present an unreasonable risk of personal injury due to a thermal hazard caused by their tipping over.

The Commission also believes that § 1505.5(e)(6) of the electrical toy regulations should be amended to require

cords on all electrically-operated toys to be no smaller in size than No. 18 AWG (American wire gage) for adequate short circuit protection. Wire gauges smaller in size than 18 AWG create the possibility that the cord, in the event of a short circuit, rather than opening a fuse or circuit breaker, will smolder and burn, and expose live parts. As the regulation is presently written, cords smaller in size than 18 AWG could be used on products subject to the regulation. The Commission believes this requirement is necessary if electrically-operated products are not to present an unreasonable risk of personal injury due to electric shock and fire hazards.

ENVIRONMENTAL CONSIDERATIONS

The CPSC's interim environmental review procedures, 16 CFR 1021.5, provide that an environmental review is generally not required for amendments to an existing standard that do not alter the principal purpose or effect of the standard. The proposed amendments below would not alter the principal purpose or effect of the electrical toy regulations. Rather, they allow manufacturers to use a variety of cords on the products subject to the amendments rather than just one type of cord. The Commission does not believe there would be environmental effects from the promulgation of the amendments which would necessitate an environmental review. Consequently, preparation of a draft environmental impact statement is unnecessary.

REQUEST FOR COMMENT

The Commission is particularly interested in obtaining comments on the following items:

1. Is there a need to amend the regulations for electrically-operated toys or other electrically-operated articles intended for use by children to require that particular types of cords be used with hand-held educational or hobby-type products intended for heating?

2. Are there other type cords that should be allowed to be used on the products subject to the proposed amendments not listed in the proposal? If so, commenters should identify those cords and explain why they should be allowed to be used.

CONCLUSION AND PROPOSAL

The commission has considered the potential thermal hazard presented by hand-held education or hobby-type products intended for heating, such as woodburning tools, due to tipping over because of the influence of the electrical cord used on the product. It has also considered the potential for electric shock and fire hazards if cords smaller in size than 18 AWG are used on electrically-operated products. It concludes that the amendments to the

electrical toy regulations set forth below should be proposed.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (r), (s), (t), 3(e)(1); 74 Stat. 372, 374, 375, as amended, 83 Stat. 187-189; 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR Part 1505 as follows:

1. Section 1505.5(e) is amended to read as follows:

§ 1505.5 Electrical design and construction.

(e) Power supply connections (cords and plugs).

(5) A flexible electrical power cord provided on a toy shall be type SP-2 (as defined in the "National Electrical Code," Chapter 4, article 400, pages 230-241 (1978), published by the National Fire Protection Association), or its equivalent, or a heavier general-use type, and shall not be less than 5 feet nor more than 10 feet in length when measured as the overall length of the attached cord outside the enclosure of the toy, including fittings, up to the face of the attachment-plug cap. However, hand-held educational or hobby-type products intended to generate heat, such as woodburning tools, shall use one of the type cords designated below, in accordance with the weight of the product, without the cord:

Weight of appliance (without cord)	Cord type*
1/4 lb (0.227 kg) and lighter	SP-1, SPT-1, HPD.
Heavier than 1/4 lb (0.227 kg).	SP-2, SPT-2, SV, SVO, SVT, SVTO, HPD, HPN, SJ, SJO, SJT, SJTO.

2. Section 1505.5(e)(6) is amended to read as follows:

(6) A flexible cord and plug shall have a current-carrying capacity of not less than the ampere rating of the toy and the conductor of the cord shall have a cross sectional area no less than No. 18 AWG (American Wire Gauge).

Publication of this proposal in the FEDERAL REGISTER shall have the effect of continuing the suspension of application of the existing 16 CFR 1505.3(e)(5) regarding the type of cord to be used with hand-held educational or hobby-type products, such as wood-

burning tools, pending review of comments and promulgation of a final banning regulation in this matter. This suspension was previously announced in the FEDERAL REGISTER of January 23, 1974 (39 FR 2611). Publication of this proposal will not affect any other portion of 16 CFR Part 1505.

Interested persons are invited to submit, on or before May 15, 1978, written comments regarding this proposal. Comments and any accompanying material should be submitted, preferably in 5 copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, 3rd floor, 1111 18th Street NW., Washington, D.C. from 8:30 a.m. to 5 p.m., Monday through Friday.

Dated: March 8, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer
Product Safety Commission.

[FR Doc. 78-6561 Filed 3-13-78; 8:45 am]

[4110-03]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Food and Drug Administration

[21 CFR Part 184]

[Docket No. 77N-0035]

ACONITIC ACID

**Affirmation of Gras Status as Direct
Human Food Ingredient**

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: This is a revised proposal to remove an error from the proposal for GRAS affirmation for aconitic acid, published in the FEDERAL REGISTER of August 30, 1977 wherein the use of aconitic acid in one food category was incorrectly cited.

DATE: Written comments by May 15, 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:

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: In the proposal published in the FEDERAL REGISTER of August 30, 1977 (42 FR 43642), the use of aconitic acid in one food category was incorrectly cited. In proposed § 184.1007(d) appearing in column three of page 43643, the seventh through ninth lines of paragraph (d) reading "0.002 percent for beverages and beverage bases, non-alcoholic as defined in § 170.3(n)(3) of this chapter" should be "0.002 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter". The Commissioner has concluded that rectifying the error constitutes a substantial change and should be accomplished through issuance of a revised proposal.

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, 371(a))), and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Part 184 be amended in § 184.1007(d) as follows:

§ 184.1007 Aconitic acid.

(d) The ingredient is used in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.003 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 0.002 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter, 0.0015 percent for frozen dairy products as defined in § 170.3(n)(20) of this chapter, 0.0035 percent for soft candy as defined in § 170.3(n)(38) of this chapter, and 0.0005 percent or less for all other food categories.

Interested persons may, on or before May 15, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 7, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6524 Filed 3-13-78; 8:45 am]

*The cord types are as defined in the "National Electrical Code", chapter 4, article 400, pages 230-241 (1978), published by the National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, 470 Atlantic Ave., Boston, Mass. 02210.

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Chapter I]

[FHWA Docket No. 76-21; Notice 4]

REVIEW OF REGULATIONS AND DIRECTIVES

Termination of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of termination of proposed rulemaking.

SUMMARY: The Federal Highway Administration has completed a study and report, and issued a policy as well as an implementation plan and schedule, on the minimization of red tape in order to improve Federal-aid highway program delivery procedures. Twenty-three of the report's 33 recommendations have been adopted, and 10 are under consideration. Thus, rulemaking activity has developed an improved internal process for the review of new and existing regulations and directives, rather than a new regulation for public observance. Therefore, this rulemaking docket is closed. As appropriate, future actions, which may be taken to complete consideration on, or implement, those recommendations currently in a deferred status, will be published in the FEDERAL REGISTER.

EFFECTIVE DATE: Docket No. 76-21 is closed on March 14, 1978.

ADDRESS: FHWA Docket No. 76-21, Notice 4, Room 4230, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Dennis Judycki, Office of the Federal Highway Administrator, 202-426-0848, or Hugh T. O'Reilly, Office of the Chief Counsel, 202-426-0780, Federal Highway Administration. Office hours are from 7:45 a.m. to 4:15 p.m. et, Monday through Friday.

SUPPLEMENTARY INFORMATION: In November 1976, the Federal Highway Administration (FHWA) undertook a review of its requirements, directive material and program management with a view to determining how its delivery procedures for Federal-aid for highways may be improved.

The FHWA on December 1, 1976 (41 FR 52703) and February 25, 1977, (42 FR 11023), published an Advance Notice of Proposed Rulemaking, respectively, soliciting comments on this subject from interested persons.

A report, including recommendations which are directed at improving Federal-aid highway procedures and reducing to a minimum unnecessary requirements on all levels of government, was submitted to the Federal Highway Administrator on June 29, 1977. On August 15, this report was distributed within FHWA, to all State Departments of Transportation/Highway Agencies, and those cities, counties, and interest groups involved in earlier phases of information gathering.

On August 18, 1977 (42 FR 41651), and September 21, 1977 (42 FR 47563), respectively, a further Supplemental Advance Notice of Proposed Rulemaking and Extension of Comment Period solicited public comment from interested persons.

A substantial majority of those commenting felt the task force recommendations would make a significant contribution to reducing red tape and simplifying the delivery system for the Federal-aid highway program. There were others commenting that objected to the recommendations on the grounds that they would have the effect of reducing Federal control and increasing State flexibility in carrying out the highway program.

There were also negative comments on some of the model directives that were published in the Appendix to the report, particularly those relating to urban transportation planning. It should be noted that these comments will be considered at such time as model directives (regulations) are prepared for issuance. Model directives as well as remaining directives to be reviewed may also be published in the FEDERAL REGISTER as individual rulemaking proposals prior to final issuance.

An Implementation Committee chaired by the Deputy Administrator has considered the 33 task force recommendations along with all comments received and recommended implementation action to the Administrator. This resulted in 23 recommendations being adopted and 10 being deferred for further study in consideration of the comments received. The deferred recommendations deal with areas concerning delegations of authority, environment, certification acceptance procedures and approaches to program management. These were the areas where comments indicated a need for further study.

Some of the significant actions taken thus far to implement the study recommendations include (a) the issuance of FHWA Notice N-1321.28 on October 20, 1977 to set forth the agency policy on minimization of red tape in developing new program directives (regulations) and (b) the issuance of FHWA Notice N-2300.7 on November 1, 1977 to: (1) Develop a plan and schedule for

handling each recommendation, (2) assign specific responsibilities for implementation of those recommendations adopted, and (3) establish an arrangement for monitoring progress on implementation. The implementation plan and schedule (FHWA Notice 2300.70 is available through the information contacts listed above, and the policy provisions of FHWA Notice N-1321.23 are set forth below:

3. POLICY. It is the policy of FHWA that:

a. Requirements or restrictions should not be imposed which expand on the law. Responsibility and authority should be delegated to the Division Administrator wherever possible and feasible. Detailed procedures should be minimized.

Each review, reporting or other requirement imposing a time, paperwork, or manpower burden on the State or field office staffs be given through review to assess the effect if not implemented. It should be standard procedure that the Division Administrator be given broad discretion to perform within a framework of clearly stated policy.

Every effort be made to implement the above policy through utilization of the following criteria when developing requirements:

(1) Minimize imposing additional requirements not contained or envisioned in the law.

(2) Set forth policy and procedures clearly and succinctly.

(3) Curtail lengthy and excessively detailed instructions.

(4) Decentralize program responsibilities and related delegations of authority to insure that review and approval authority is at the lowest qualified level.

(5) Eliminate redundancy within a directive or within the directives system.

(6) Provide for maximum flexibility and discretion on the part of FHWA field elements and the States.

(7) Include only those requirements clearly necessary for effective implementation of the program and which can reasonably be accomplished.

(8) Eliminate excessive reporting, submittal and program review requirements.

(9) Give increased emphasis to the fact that States and local Federal highway aid recipients are competent and possess or have access to skills of the highest order.

(10) Assume that State and local officials through close interaction with the public are best able to judge local values and needs.

(11) Assure that supplemental technical advisory information clearly be advisory and not used as a regulatory substitute.

b. State and local governments, to the greatest extent feasible, be given

the opportunity for involvement when the development of directives material is first being considered.

c. Optimum use be made of the Advance Notice of Proposed Rulemaking and the Advisory Commission on Intergovernmental Relations processes.

d. States, local governments and others interested in commenting be given a 45-day minimum review and comment period for Advance Notice of Proposed Rulemaking and a 60-day period for Notice of Proposed Rulemaking when the FEDERAL REGISTER Process is used.

e. When the FEDERAL REGISTER process is utilized, an examination will be made as to the disposition of significant comments received and, in selected cases, the disposition of such comments individually communicated to those commenting.

f. The Division Administrator be given the opportunity to initially manage new programs without detailed procedures being prescribed by the Washington program offices.

g. The "Directives System Handbook" be followed by the program offices in developing directives.

h. A formal review of each directive be made:

(1) Following an appropriate period of use after issuance to determine its effectiveness, and

(2) No more than 3 years after issuance to judge its current applicability and necessity.

Issued on: March 3, 1978.

WILLIAM M. COX,
Federal Highway Administrator.
[FR Doc. 78-6514 Filed 3-13-78; 8:45 am]

[4510-29]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs Office

[29 CFR Part 2510]

DEFINITION OF TERMS

Definition of an Employee Pension Benefit Plan—Severance Pay Plans

AGENCY: Department of Labor.

ACTION: Proposed regulation.

SUMMARY: This document proposes the rescission of a regulation setting forth the circumstances in which a severance pay plan is not deemed a pension plan under the Employee Retirement Income Security Act of 1974 (ERISA) and proposes the adoption of a new regulation. In response to public commentary, the proposed new regulation, generally, would permit a plan to make greater payments and to make payments over a longer period of time

without being deemed a pension plan than the existing regulation. The proposed regulation would permit employers to offer greater severance benefits to employees without compliance with the participation, vesting and funding provisions of parts 2 and 3 of Title I of ERISA.

DATES: The regulation, if adopted, would be effective retroactive to January 1, 1975. Comments concerning the proposed final adoption and rescission are due on or before May 15, 1978.

ADDRESSES: Interested persons are invited to submit written data, views or arguments concerning any part or all of the proposals contained in this document to "Severance Pay Plan Regulations," Room C-4526, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. All written submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Robert Doyle, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202-523-8685. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

On August 15, 1975 (40 FR 34527), the Department of Labor (the Department) adopted § 2510.3-2(b) which specified the circumstances under which severance pay plans would not be deemed pension plans as defined in section 3(2) of ERISA. That regulation provides that a plan under which payments are made on account of an employee's separation from the service of an employer, other than on account of retirement, is not a pension plan if (i) all payments to any participant are completed within one year after the participant's separation from service, and (ii) the total of all payments made within such year to any participant does not exceed the participant's annual compensation level.

Since adoption of the regulation, numerous members of the public have criticized the benefit limit and payment period provided by the regulation as imposing arbitrary criteria for determination of whether a severance pay plan is, in operation, a pension plan, and as having adverse effects on participants' interests. It has also been argued that the final regulation substantially modified the conditions in the proposed regulation (40 FR 24652, June 9, 1975). It was indicated that a large number of plans would have

qualified for non-pension plan status under the June 9, 1975 proposal but did not satisfy the provisions of the adopted regulation.¹

The regulation herein proposed deals with many of the problems raised by the commentators by extending the period in which and the amount of payments which may be made to terminated employees without the plan's being deemed a pension plan. Under this proposed regulation, a "safe harbor" is provided under which a severance pay plan would not be a pension plan if it provides a maximum benefit which does not exceed two years of annual compensation, and, in general, the benefit is paid to the participant within 24 months after termination of employment.² Special provisions are set forth in subparagraph (2) to cover employees who have elected early retirement under "limited programs of termination." Because distinguishing circumstances may be involved, the regulation extends the permissible payment period to 24 months after normal retirement age in such cases.

Finally, the proposed regulation unlike the current regulation, makes it explicit that severance plans which do not conform to the provisions of the regulation may, nevertheless, not be pension plans under the Act. Specifically, under subparagraphs (1) and (3) of the proposed regulation, plans established to pay severance benefits, which benefits are within the limitations specified in the regulation, are not pension plans; the status of plans whose benefits exceed those limitations would not be resolved by the regulation, but instead would be determined upon the basis of the facts and circumstances relating to the particular plan.³

Under the authority in Section 505 of ERISA, Pub. L. 93-406, 88 Stat 894 (29 U.S.C. 1135) the Department of Labor proposes that Chapter XXV of Title 29 of the Code of Federal Regu-

¹ After preliminary consideration of these comments, the Department issued a press release, USDL 76-707, on April 26, 1976, announcing its intention to revise the severance plan regulation by expanding the benefit limit and extending the time during which payments must be completed.

² The regulation provides that all payments made to a participant be completed within the time period specified. This provision would not be satisfied by arrangements which are functionally and economically equivalent to a pension plan, such as, for example, where the employer, in fulfillment of its obligation under the plan, purchases a single premium, immediate, life annuity to cover the employee.

³ ERISA Proc. 76-1 (41 FR 36281, Aug. 27, 1976) sets forth a procedure whereby individuals or organizations may request an advisory opinion of the Department.

lations be amended by revising § 2510.3-2(b) to read as follows:

§ 2510.302 Employee pension benefit plan.

(b) *Severance pay plans.* (1) Plans providing severance pay benefits when an employee terminates service for reasons other than retirement will not be deemed to be providing retirement income as a result of surrounding circumstances and thus will not be considered "employee pension benefit plans" under section 3(2) of the Act if two conditions are met:

(i) The total amount of severance payments made to an individual does not exceed the equivalent of twice the employee's annual rate of compensation. The annual rate of compensation shall be determined in any reasonable manner, including, for example, the projection of average hourly or weekly pay over a customary work year; and

(ii) All severance payments made to an individual are completed within 24 months after the termination of employment.

(2) However, the condition that severance payments must be completed within 24 months after termination does not apply to employees who elect early retirement benefits under the employer's pension plan and who receive severance pay benefits in connection with a limited program of terminations, so long as the severance payments are completed within 24 months after the employee reaches normal retirement age. A limited program of terminations means a program which is—

(i) Undertaken for a bona-fide business purpose;

(ii) Limited in duration;

(iii) Defined in scope. The scope of the program may be established, for example, by setting as a fixed goal a percentage or number of employees to be terminated. It may also be established where there is a complete or partial discontinuance of the employer's operations, such as complete or partial plant shutdown, department curtailment, discontinuance of a product line, or phasing out of certain job classifications; and

(iv) Set forth in a written document which is available to the Secretary upon request and which describes the limitations in the scope and duration of the program and such other information as may be necessary to describe the program.

(3) If a plan provides severance pay benefits which exceed the limitations set forth in subparagraphs (1) and (2), its status as a pension plan will be resolved based on the facts and circumstances specifically related to the plan.

This paragraph is effective January 1, 1975.

Signed at Washington, D.C., this 10th day of March 1978.

IAN D. LANOFF,
Administrator of Pension and
Welfare Benefit Programs,
Labor-Management Services
Administration.

[FR Doc. 78-6748 Filed 3-13-78; 8:45 am]

[7708-01]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2610]

VALUATION OF PLAN BENEFITS

Interim Regulation; Proposed Amendment

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed Amendment to the Interim Regulation.

SUMMARY: This proposed rule prescribes the rates and factors to be used for valuing plan benefits under title IV of the Employee Retirement Income Security Act of 1974 for plans that terminated on or after December 1, 1977, but before March 1, 1978. It is necessary because the PBGC has not yet published valuation rates and factors for plans that terminated during the period covered by the proposed amendment. The proposed amendment's effect is to provide notice of the rates and factors that will be used to value benefits provided under such plans.

DATES: Comments should be submitted on or before April 13, 1978.

ADDRESSES: Comments should be sent to: Office of the General Counsel, Pension Benefit Guaranty Corporation, Room 7200, 2020 K Street NW., Washington, D.C. 20006. Copies of written comments will be available for examination in: Office of Communications, Pension Benefit Guaranty Corporation, Suite 7100, 2020 K Street NW., Washington, D.C., between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006; 202-254-4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits under title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484

et seq.). The regulation included an appendix containing rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before June 1, 1977 (42 FR 2678 et seq., 42 FR 32777 et seq., 42 FR 41858 et seq., 42 FR 59753 et seq.). On November 21, 1977, the PBGC published for comment in the FEDERAL REGISTER additional rates and factors for valuing benefits in plans that terminate on or after June 1, 1977, but before December 1, 1977 (42 FR 59760 et seq.). The PBGC has now developed rates and factors for valuing benefits in plans that terminate on or after December 1, 1977, but before March 1, 1978, and proposes to amend the interim regulation to add these factors.

Each person submitting comments on this proposal should include his/her name and address, identify this notice and give reasons for any recommendation. The proposal may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend part 2610 of chapter XXVI of title 29, Code of Federal Regulations, by adding a new table X to appendix B to read as follows:

X. The following interest rates and quantities used to value deferred annuities shall be effective for plans that terminate on or after December 1, 1977, but before March 1, 1978.

I. Interest rate for valuing immediate annuities

An interest rate of 6% percent shall be used to value immediate annuities, to compute the quantity "Gy" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. Interest rate for valuing death benefits
An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. Interest rates and quantities used for valuing deferred annuities.

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

- (1) $k_1 = 1.0625$
- (2) $k_2 = 1.045$
- (3) $k_3 = 1.0375$
- (4) $n_1 = 8$
- (5) $n_2 = 10$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C. on this 9th day of March 1978.

MATTHEW M. LIND,
Executive Director, Pension
Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board

of Directors authorizing its Executive Director to issue same.

HENRY ROSE,
Secretary, Pension Benefit
Guaranty Corporation.

[FR Doc. 78-6577 Filed 3-13-78; 8:45 am]

[7910-01]

RENEGOTIATION BOARD

[32 CFR Parts 1460 and 1469]

ANALYSIS OF RENEGOTIABLE BUSINESS BY SEGMENTS

Notice of Proposed Rulemaking

AGENCY: The Renegotiation Board.

ACTION: Extension of comment period.

SUMMARY: The Renegotiation Board is extending the comment period for its Notice of Proposed Rulemaking on Analysis of Renegotiable Business by Segments.

DATES: Comments must be received on or before April 15, 1978.

ADDRESS: Comments should be sent to the General Counsel, Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On January 16, 1978, the Renegotiation Board published a Notice of Proposed Rulemaking concerning Analysis of Renegotiable Business by Segments. The notice invited interested persons to comment in writing on the proposed regulations on or before March 15, 1978.

The board has received requests that the comment period be extended. The board has decided to extend the time within which comments must be received on its Notice of Proposed Rulemaking on Analysis of Renegotiable Business by Segments to April 15, 1978.

The Board's action is based on recognition of the fact that the proposed regulations are major and unusually complex. Further, the Board notes that the processing of pending renegotiation cases will not be unduly delayed by this extension.

Dated: March 8, 1978.

GOODWIN CHASE,
Chairman.

[FR Doc. 78-6562 Filed 3-13-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

[38 CFR Part 21]

VETERANS EDUCATION

Measurement of Courses; 2-Year Operation Period

AGENCY: Veterans Administration.

ACTION: Request for public comment.

SUMMARY: The Veterans Administration is publishing for public comment new and revised statements of policy and procedures which have been adopted by the Agency to implement the GI Bill Improvement Act of 1977. These policy and procedural statements will better acquaint veterans, eligible persons, educational institutions, and the public at large with the way in which this Act will be administered.

DATES: Comments must be received on or before April 13, 1978.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available at the address shown above during normal business hours until April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: This publication contains DVB Circular 20-77-97, Appendixes E and F. These appendixes deal with the policy and procedures necessary to implement provisions of the GI Bill Improvement Act of 1977 as to clock-

hour measurement of courses not leading to a standard college degree and waiver of the 2-year operation requirement. These appendixes have been implemented and have or will be distributed through normal channels to interested persons.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding this document to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until April 24, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to a VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and above room number.

Approved: March 8, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

APPENDIX E.—CLOCK-HOUR MEASUREMENT FOR NCD COURSES, PER PUB. L. 95-202

1. *Purpose.* This appendix provides instructions for implementing the provisions of Pub. L. 95-202 concerning the clock-hour measurement of NCD (non-college-degree) courses (38 U.S.C. 1788(a)). These provisions are effective February 1, 1978.

2. *General.* Pub. L. 95-202 reduced the number of clock-hours required for full-time attendance in accredited NCD courses. It also limited to 5 the number of hours of supervised study which may be counted towards full-time attendance in nonaccredited NCD courses. (Previous instructions in par. 4, app. L, DVB Circular 20-76-84, allowed no supervised study in either accredited or non-accredited courses.)

3. *New Measurement.* New Measurement. The following chart illustrates the changes in the clock-hour and supervised study requirements:

Training time	Accredited courses		Nonaccredited courses		
	Theory	Shop	Theory	Shop	Maximum supervised study hours
Full time.....	18 or more h.	22 or more h.	25 or more h.	30 or more h.	5 or less h.
¾ time.....	13-17.....	16-21.....	18-24.....	22-29.....	3%.
½ time.....	9-12.....	11-15.....	12-17.....	15-21.....	2%.
Less than ½ more than ¼.....	5-8.....	6-10.....	7-11.....	8-14.....	1%.
¼ or less.....	1-4.....	1-5.....	1-6.....	1-7.....	None.

*The chart on p. 12 of the basic circular has been corrected to reflect proper training time requirements (¾ and ¼) for accredited theory courses, as shown above.

4. *Supervised study.* Supervised study is generally a "study hall" in which students study or work on assigned homework with an instructor present to answer questions. Time spent in supervised study is countable towards the clock-hour measurement of nonaccredited courses only; it is not countable towards the clock-hour measurement of accredited courses.

NOTE.—Unsupervised study cannot be included in the measurement of any NCD course, whether accredited or nonaccredited.

5. *Revised approvals.* a. The station liaison representative must review the approvals of all accredited NCD courses to identify those that would qualify for an increase in training time based on the course's current approval. (Example: A school offers an accredited theory course which is approved for 20 clock-hours per week of attendance. Persons currently enrolled in this course would be receiving benefits at the ¾-time rate. Under the new measurement provisions, these persons would be entitled to full-time benefits from February 1, 1978.)

b. Schools that change the attendance requirements or include supervised study in a nonaccredited course should contact the SAA (State Approving Agency) to obtain approval. If the SAA finds that a revision is in order, the effective date will be in accordance with the facts found. However, in no event will increased benefits under the liberalized provisions of Pub. L. 95-202 be authorized earlier than February 1, 1978. The liaison representative will review all revised approval data received from the SAA to ensure that all requirements of law and VA regulations are met.

c. A VA Form 22-1998b, Approval Information-Accredited NCD Courses or Nonaccredited Courses, will be prepared for each NCD course whose approval information is revised under either subparagraph a or b above.

6. *Award Adjustment.* The liaison representative will contact all schools for whom a revised VA Form 22-1998b has been prepared as a result of the new measurement provisions.

a. In cases where the current approval of a course would entitle enrollees to a higher training time (see par. 5a), the school will be requested to furnish a list of VA education beneficiaries enrolled in the course. The list should contain the names and file numbers of all Chapter 34 and 35 recipients enrolled on or after February 1, 1978. If the school cannot compile a list because of a large enrollment or other problem, then the liaison representative will request a VA Form 20-8270a, Education Master Record—Audit Writeout, from DPC Hines for the facility involved.

b. When an approval is changed which will affect the measurement of a course (see par. 5b), the school will be advised to furnish a VA Form 22-1999b, Notice of Change of Student Status, for each student enrolled in the course. The revised hours per day, days per week and ending date of the course must be shown.

c. Upon receipt, the lists, master record writeouts or VA Forms 22-1999b will be routed to the Authorization activity for possible award action. If Authorization determines an increase is appropriate based on Pub. L. 95-202, the effective date will be in accordance with the facts found but in no event earlier than February 1, 1978.

7. *Approval information.* The liaison representative must prepare a VA Form 22-1998b for all accredited courses to reflect the new full-time clock-hour measurements under VAR 14270. This can be accomplished when the folders are initially reviewed (see par. 5a) or can be done as the folders are reviewed in the normal course of business. In either case, a VA Form 22-1998b reflecting the new measurement provisions must be prepared for all accredited courses by October 1, 1978.

APPENDIX F.—TWO-YEAR PERIOD OF OPERATION WAIVERS FOR BRANCHES AND EXTENSIONS

1. *Purpose.* This appendix provides instructions for implementing the portions of Pub. L. 95-202 which provide for waivers of certain subsections of the period of operation requirement (2-year rule).

2. *General.* a. Title 38, U.S.C. 1789(b)(6) provides that the 2-year rule will not apply to courses offered under contract with the DOD (Department of Defense) on or adjacent to a military base, which are open to active duty military personnel and/or their dependents and have been approved by the SAA (State Approving Agency) of the State where the base is located. Pub. L. 95-202 has amended this clause to provide that the Veterans Administration may waive its requirements in whole or in part if it is in the interest of the eligible veteran and the Government. Such waivers would thus extend this exception to the 2-year rule.

b. Title 38, U.S.C. 1789(c) provides that, regardless of other exceptions in the law, the 2-year rule will apply to any course offered by a branch or extension of (1) a public or tax-supported institution, if the branch or extension is located outside the taxing jurisdiction which supports the institution; or (2) a proprietary profit or proprietary non-profit institution, if the branch or extension is located beyond normal commuting distance of the institution. Pub. L. 95-202 has added a provision for waiver of these requirements in whole or in part, if the VA finds a waiver to be in the interest of the veteran and the Government (38 U.S.C. 1789(c)). See DVB Circular 20-77-99 for definitions of branches, extensions, and normal commuting distance.

3. *Waiver for courses offered on military bases.* Authority to grant limited specific waivers relevant to the subsection of the 2-year rule concerned with military base courses is hereby delegated to station Directors as explained below. The precise nature of the authorized waivers differs according to whether the course in question is offered on a base in the United States or overseas. The waivers are underlined for clarity.

a. Military base located in a State; 2-year rule does not apply if

(1) The course is offered under contract with DOD; and

(2) The course is offered on or adjacent to the base; and

(3) The course is approved by the SAA of the State where the base is located; and

(4) the course is open only to active duty military personnel and/or their dependents and/or civilian employees of the base. (Note that this attendance requirement for an exception to the 2-year rule is not violated if veterans who first attended the course as active duty students are enrolled. Such veterans must have maintained continuous enrollment in the same course at the same base site after discharge from active duty.)

b. Bases not located in a State; 2-year rule does not apply if

(1) The course is offered under contract with DOD; and

(2) the course is offered on or adjacent to the base; and

(3) The course is approved by the SAA of the State in which the parent institution is located; and

(4) *The course is open only to persons permitted to attend by the base commander.* (Documentation of this provision is not required for VA purposes; the certification required in subpar. c will suffice.) In addition, any course qualifying for this waiver will also have the 85-15 percent ratio requirement waived. (This modifies the 85-15 percent waiver contained in DVB Circular 20-76-84, app. H, par. 4b(5).) The 2-year rule and 85-15 percent waivers for overseas courses are granted recognizing the special circumstances under which such courses operate.

c. Application for the waivers outlined in subparagraphs a and b above will be in the form of a certification made by a school official that the applicable conditions have been met, and will be made through the SAA which must approve the course. The decision on the request for waiver will be made by the Director of the station with responsibility for liaison with the approving SAA (see par. 5 for further information on waiver procedures).

4. *Other 2-year rule waivers for branches and extensions.* Branches or extensions offering courses which must meet the 2-year rule as explained in paragraph 2b may apply for a waiver of the provisions of 38 U.S.C. 1789(c). Such waivers, when granted, will allow the course(s) in question to be exempted from the 2-year rule, provided that the course qualifies for an applicable statutory exception under 38 U.S.C. 1789(b)(1), (2), (3), or (4). Application will be made to the appropriate VA station Director through the SAA and must state the specific requirement for which a waiver is sought. The application should also include sufficient information to allow the Director to judge the merits of granting a waiver. A waiver of a 2-year rule requirement may be approved in the interest of veterans and the Federal Government if all of the following conditions are met:

a. No alternative comparable (including cost) courses effectively open to VA students are offered within normal commuting distance of the site for which a waiver is requested.

b. The compliance history of the parent institution is satisfactory. Important factors to be considered are enrollment certification timeliness and accuracy, false or deceptive advertising complaints, and school liability indebtedness to the VA.

c. The course for which a waiver is requested is offered at the school's main campus and is approved for payment of VA educational assistance.

d. All credits earned at the branch or extension in question are acceptable for transfer to the main campus without reservation.

e. No contracts exist between the school and any other entity which provide for recruitment of students for the course in question by the other entity, payment of tuition or other fees to the entity rather than the school, or which prevent the school's faculty and administration on the main campus from overseeing courses offered at the branch or extension.

5. *Waiver application procedures.* a. Applications for 2-year rule waivers and any necessary supporting documentation should

be included with application or reapplication to the appropriate SAA for approval of the courses offered by a branch or extension. The SAA will review the waiver application and, if the course is otherwise approvable under 38 U.S.C. 1775 or 1776, forward all of the approval material to the VA office having liaison responsibility for the State where the approval is being made with a recommendation as to whether a 2-year rule waiver should be granted.

(1) At this time the SAA will inform the applying school, branch, or extension of the SAA's action. It should be made clear that final approval of the course depends on VA acceptance of the course approval and favorable VA action on the waiver request. (Note that this notification will not be the letter of course approval.)

(2) If a course is not approvable for some reason not related to 2-year rule requirements, the 2-year rule waiver request alone will not be forwarded to the VA.

b. If the liaison representative of the station with liaison responsibility accepts the approval, he or she will then review the waiver request. The liaison representative may consult with other VA stations as necessary by telephone to ascertain whether waiver criteria have been met by either the parent institution or the branch or extension; information concerning a waiver obtained in this manner will be documented on VA Form 119, Report of Contact. The waiver request and all pertinent information will be forwarded to the station Director for final decision.

(1) If the waiver is granted, the station Director will so notify the appropriate SAA by letter, a copy of which will be filed in the approval folder. The SAA, in turn, will send a letter of course approval to the school, branch, or extension.

(2) If a waiver request is denied, the station Director will specify the reason(s) in a letter to the SAA, which will inform the school that administrative review of this decision may be requested of the VA. Administrative review requests will be forwarded with all pertinent information to the appropriate Field Director (225B).

[FR Doc. 78-6567 Filed 3-13-78; 8:45 am]

[8320-01]

[38 CFR Part 36]

LOAN GUARANTY

VA Home Loans in Foreclosure

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The Veterans Administration proposes to amend its regulations by adding a provision that will allow an obligor on a delinquent Veterans Administration guaranteed or insured loan to cure the delinquency at any time prior to a foreclosure sale. If the proposed amendment is adopted, an obligor on a Veteran Administration loan will be permitted to avoid foreclosure whenever such obligor has sufficient funds to cure the delinquency prior to liquidation of the security.

DATE: Comments must be received on or before April 13, 1978. It is proposed

to make this amendment effective the date of final approval.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above normal business hours until April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, 202-389-3668.

SUPPLEMENTARY INFORMATION: Veterans Administration policy encourages lenders to service loans and prevent foreclosure of an obligor's home loan if at all feasible. The proposed regulation is necessary in order to eliminate confusion by program participants of Veterans Administration policy concerning loan reinstatement.

The proposed regulation will allow an obligor to reinstate his or her loan at any time prior to a judicial or statutory sale or other public sale of the secured property under power of sale provisions contained in the loan instruments. An obligor must pay sufficient funds to bring the delinquent loan to a current status in order for the loan to be reinstated.

Sufficient funds to bring the delinquent loan current would include but not be limited to an amount which would pay all installment payments presently due (including principal, interest, taxes, and insurance) and pay any reasonable expenses incurred by the lender or holder during foreclosure proceedings such as advertising costs, recording fees, attorney fees, etc. Reasonable expenses would not include the administrative expenses of loan servicing.

The proposed regulation is necessary to advise each obligor and each lender or holder of his or her rights and responsibilities regarding reinstatement of loans on which foreclosure proceedings have begun. It is hoped that this regulation, if adopted, will save the homes of some obligors and preclude the foreclosure of some Veterans Administration guaranteed or insured loans.

This amendment is proposed under authority granted to the Administrator by section 1803(c)(1) of title 38, United States Code.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271a), Veterans Administration, 810

Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until April 24, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: March 8, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 36.4308, paragraph (g) is added to read as follows:

§ 36.4308 transfer of title by borrower or maturity by demand or acceleration.

(g) If sufficient funds are tendered to bring a delinquency current at any time prior to a judicial or statutory sale or other public sale under power of sale provisions contained in the loan instruments to liquidate any security for a guaranteed loan, the holder shall be obligated to accept the funds in payment of the delinquency unless the prior approval of the Administrator is obtained to do otherwise. A delinquency will include all installment payments (principal, interest, taxes, insurance, advances, etc.) due and unpaid and any accumulated late charges plus any reasonable expenses incurred and paid by the holder if termination proceedings have begun (e.g., advertising costs, foreclosure costs, attorney or trustee fees, recording fees, etc.).

[FR Doc. 78-6566 Filed 3-13-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 221]

[Docket No. ROS-1, Notice 3]

RAILROAD OCCUPATIONAL SAFETY AND HEALTH STANDARDS; TERMINATION

Policy Statement

AGENCY: Federal Railroad Administration, DOT.

ACTION: Termination of rulemaking proceeding and issuance of policy statement.

SUMMARY: The Federal Railroad Administration (FRA) is withdrawing its notice of proposed rulemaking with respect to railroad occupational safety and health standards. FRA had determined that it should not attempt to regulate at this time in an area already covered by regulations issued by the Department of Labor (Labor). This termination notice also explains the respective jurisdiction of FRA and Labor in a policy statement.

EFFECTIVE DATE: This termination is effective March 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Grady Cothen, Jr., Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C., 202-426-8285.

SUPPLEMENTARY INFORMATION:

On July 15, 1976, the Federal Railroad Administration (FRA) published a notice of proposed rulemaking (41 FR 29153) concerning the issuance of railroad occupational safety and health standards under the authority of the Federal Railroad Safety Act of 1970 (84 Stat. 971; 45 U.S.C. 421 et seq.). The specific standards proposed in that proceeding, designated as Docket No. ROS-1, concerned means of egress from buildings and structures, general environmental controls and fire protection. The requirements of the proposed standards, corresponded generally to those contained in subparts E, J and L of the Occupational Safety and Health Standards (29 CFR Part 1910) issued by the Occupational Safety and Health Administration of the Department of Labor (OSHA/DOL). After reviewing the comments submitted to this Docket, and on reconsideration of the proper role for FRA in the general area of occupational safety and health, the FRA has determined that the proposed standards should not be issued and that the proceeding in Docket No. ROS-1 should be terminated. This document terminates the rulemaking proceeding and issues a policy statement concerning the relationship between the respective jurisdictions of FRA and OSHA.

On December 29, 1970, the Congress enacted the Occupational Safety and Health Act of 1970 ("OSH Act"). The purpose of that legislation was to assure safe and healthful working conditions for every working man and woman in the Nation. Under the terms of the OSH Act, every employer engaged in a business affecting commerce has a general duty to furnish each of his employees employment and places of employment free from recognized hazards causing, or likely to cause, death or serious physical harm. In addition, employers are required to comply with all safety and health standards promulgated under

the OSH Act that are applicable to working conditions involved in their businesses.

Administration of the OSH Act is vested primarily in the Secretary of Labor who is responsible for promulgating and enforcing occupational safety and health standards. During the initial two year period after the effective date of the OSH Act the Secretary of Labor was directed to promulgate, as Federal occupational safety and health standards, any national consensus standard and any established Federal standard designed to assure the safety or health of employees. In addition, he was given authority to promulgate, modify or revoke any standard. This statutory scheme has led to an extensive compilation of occupational safety and health standards, some of which apply generally to all employees, while others apply only to employees engaged in certain types of work.

While the OSH Act has created, for the Secretary of Labor, a broad, general authority to regulate working conditions that affect the occupational safety and health of employees, it also recognized the existence of similar authority in other Federal agencies. Section 4(b)(1) of the OSH Act provides that the OSH Act shall not apply to working conditions as to which another Federal agency exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

The FRA has long been involved in and concerned with assuring that railroad employees, shippers and the general public are provided with safe transportation by rail. This involvement dates back to the late nineteenth century when FRA's predecessor agency, the Interstate Commerce Commission, was directed to enforce statutory provisions requiring the use of various safety appliances on railroad cars and engines for the protection of employees and travelers (45 U.S.C. 1-7). Since the enactment of that initial statute, specific statutory authority has been created with respect to several other aspects of the railroad industry including the regulation of power brakes on railroad equipment, locomotive inspection standards, the reporting and investigation of railroad accidents, the maximum permissible hours of service of railroad employees, standards for signal systems for the control of train movements, and regulations governing the transportation of explosives and other dangerous substances by rail.

In order to further FRA's ability to respond effectively to the contemporary safety problems and hazards existing within the railroad industry, the Congress, in 1970, enacted the Federal Railroad Safety Act ("FRSA"). The FRSA authorized the Secretary of

Transportation to exercise broad and general regulatory powers, as he deemed necessary, in all areas of railroad safety.

Given this longstanding FRA involvement in regulatory activities concerned with assuring both safe working conditions for railroad employees and safe rail transportation of persons and property, it was obvious that the working conditions of railroad employees were subject to potential dual regulation by the Secretary of Labor pursuant to his OSH Act authority. In order to effect the Congressional policy reflected in section 4(b)(1) of the OSH Act, and thereby avoid unnecessary and inefficient duplication of Federal efforts in the area of railroad occupational safety and health, the FRA initiated a regulatory proceeding to develop specific FRA occupational safety and health standards which would preempt the Secretary of Labor from enforcing OSH Act standards applicable to the same working conditions. An advance notice of proposed rulemaking was published on March 7, 1975 (40 FR 10693) indicating FRA's intention to issue specific standards. A subsequent notice of proposed rulemaking published on July 15, 1976 (41 FR 29153) stated that FRA had decided to propose standards in three particular areas and to issue a comprehensive code of occupational safety and health standards specifically applicable to railroad employees. The applicability of the standards which were to be included in this code was defined on a territorial basis rather than a specific hazard basis. The standards would apply to certain enumerated railroad workplaces, properties, facilities, structures, and equipment. Because of the complexity and magnitude of such an undertaking, it was anticipated that this code would be issued in an incremental fashion through several successive rulemaking proceedings. As with the initial specific three areas of regulation, the proposed FRA rules would be similar to those contained in several subparts of the OSHA standards.

Written comments in response to this proposal were received, and a public hearing was conducted. The FRA has reviewed not only these comments, but also the entire original concept as to the adoption of a comprehensive code of occupational safety and health standards for the railroad industry paralleling the existing OSHA regulations.

While the FRA is vested with broad authority in all areas of railroad safety, including those of an occupational nature, we believe it is important to determine the extent to which that authority can and should be exercised in order to assure an effective and coherent overall railroad safety program. To date, the majority of our

efforts to assure continuing safety or to improve the present level of railroad safety has been concentrated in those areas of the railroad industry that are directly related to railroad operations—that is, the provision of a transportation service by rail. This is reflected throughout the existing FRA regulations which can be classified generally as those related to (1) track, roadbed, and associated devices and structures, (2) equipment and (3) human factors.

In these traditional areas of railroad safety, FRA has developed a special expertise which makes this agency uniquely qualified to play the primary role in the Federal Government's efforts to assure safe employment and places of employment for railroad employees engaged in activities related to railroad operations. We, therefore, believe that FRA must exercise a continuing role in the area of railroad occupational safety and health. However, given the present staffing level for field investigation and inspection, the FRA has determined that, at this time, it would not be in the best interests of the public and of railroad safety for this agency to become involved extensively in the promulgation and enforcement of a complex regulatory scheme covering in minute detail, as do the OSHA standards, working conditions which, although located within the railroad industry, are in fact similar to those of any industrial workplace. Rather, we believe that the proper role for FRA in the area of occupational safety in the immediate future is one that will concentrate our limited resources in addressing hazardous working conditions in those traditional areas of railroad operations in which we have special competence.

In light of this reassessment of the proper regulatory policy for FRA to pursue in the area of occupational safety and health, FRA has decided to terminate the proceeding initiated in Docket No. ROS-1, and not to issue FRA Railroad Occupational Safety and Health Standards concerning means of egress from buildings and structures, general environmental controls and fire protection. Nor does FRA presently plan to issue any other occupational safety and health standards concerning problems outside of the general area of railroad operations.

While the primary purpose of this notice is to inform all interested parties of the FRA's determination to terminate this rulemaking proceeding, the FRA believes that a more explicit discussion of the implications of this determination with respect to the existing jurisdictions of FRA and OSHA and the policy which will be utilized to guide future FRA actions in the occupational safety and health area is both necessary and in the public inter-

est. It is hoped that this discussion will assist the courts and the Occupational Safety and Health Review Commission in understanding the extent to which FRA has exercised its statutory jurisdiction, the shape and organic nature of the FRA regulatory program, and the complementary role of OSHA in promoting safe and healthful working conditions for railroad employees.

POLICY CONCERNING EXERCISE OF STATUTORY AUTHORITY

A. INTRODUCTION

This policy statement will enumerate: (1) Those categories of working conditions and associated hazards with respect to which the agency is presently exercising its authority through the application of published standards or other mechanisms; (2) those working conditions and associated hazards with respect to which the agency has determined that regulation by FRA is not appropriate at this time but which are so related to regulated conditions as to require close coordination with OSHA; and (3) other working conditions and associated hazards with respect to which FRA has no present plans to exercise jurisdiction. The purposes of this statement of policy are to assure the integrity of the regulatory program currently in place for the promotion of rail transportation safety by articulating its dimensions and to clarify the respective roles of FRA and OSHA in assuring the occupational safety and health of railroad employees.

This document addresses jurisdictional issues arising with respect to the operations of common carriers in the general system of rail transportation, wherever those operations may extend (including industrial sidings). It is not intended to address railroads which are not in the general system, since FRA's exercise of substantive jurisdiction over such railroads has been somewhat limited.

As is reflected by the termination notice set forth above, FRA has decided to focus its resources and energies for the immediate future on the safety of railroad operations. As used herein, "railroad operations" refers to the movement of equipment over the rails. The term "safety" includes health-related aspects of railroad safety to the extent such considerations are integrally related to operational safety hazards or measures taken to abate such hazards. The term "safety of railroad operations," then, relates to the conditions and procedures necessary to achieve the safe movement of equipment over the rails. For instance, the safety of railroad operations requires that track forces engaged in laying or repairing welded rail observe certain procedures impacting on the

final condition of the track and assure that geometric and other standards are met (see 49 CFR Part 213). Similarly, proper precautions to assure that trackmen are not struck by trains or other equipment moving over the rails are part of the safety of railroad operations. On the other hand, most hazards related to the handling of welding apparatus are non-operational concerns.

FRA will continue to administer a comprehensive system of accident/incident reporting for all events bearing on the safety or health of employees involved in any aspect of the rail transportation business (49 CFR Part 225). FRA will thereby monitor the possible need for rulemaking or other regulatory activities related either to occupational health or to the safety of railroad working conditions not directly associated with the movement of cars or locomotives, as such. In addition, FRA will continue its existing practice of making all accident/incident data available to OSHA for use in its complementary program of regulation.

The Occupational Safety and Health Review Commission (OSHRC) has recognized that the railroad industry is subject to the FRA accident/incident reporting requirements and is, therefore, not subject to equivalent OSHA rules. *Southern Pacific Transportation Company*, 2 OSHC 1313 (OSAHRC Docket No. 1348, 1974).

FRA regulation of railroad safety under statutes which FRA administers consists of numerous elements designed to promote the safe transportation of persons and property over the nation's railroads. Implicit in each major area of regulation is the three-fold objective of protecting passengers, persons along the right-of-way, and railroad employees. Protection of the public generally and employees in particular is, of necessity, an integrated undertaking. As a general rule, it is not possible to regulate an individual hazard without impacting on other, related working conditions, nor without impacting on the safe transportation of persons and property. Therefore, it is essential that the safety of railroad operations be the responsibility of a single agency and that that agency undertake new initiatives in an informed and deliberate fashion, weighing the impact of particular proposals on longstanding industry practices and pre-existing regulations.

With the enactment of the Federal Railroad Safety Act of 1970, FRA embarked on an attempt to supplement existing provisions of law and regulation and to achieve a consistent and comprehensive regulatory program. In pursuing its mission, FRA has been aware of the fact that discretion was given to the Secretary of Transportation to facilitate the consideration of

existing safety data and standards (45 U.S.C. 431(d)) and to permit appropriate research, development, testing and training (45 U.S.C. 437(a)). The Secretary is directed to prescribe, "as necessary," "appropriate" rules for all areas of railroad safety (45 U.S.C. 431(a)). Regulation for its own sake is disfavored. The Secretary is charged with regulating only where there is a need which can be satisfied through Federal regulation.

There are, of course, some inherent dangers in the movement of any means of carriage (e.g., airplane, truck, barge, train). Enlightened regulation involves both a concerted effort to reduce risks and a recognition that, unless all commerce is to cease, certain risks can be guarded against only by the alertness and discipline of individuals. Both OSHA and FRA seek to assure workplaces are as safe as possible. To that end the Ninety-First Congress enacted both the OSH Act and the Federal Railroad Safety Act of 1970. Within the area of railroad operations, it is FRA which must decide what regulations are necessary and feasible.

B. EXERCISE OF FRA JURISDICTION OVER RAILROAD OPERATIONS

The overall FRA program to assure the safety of railroad operations may be generally subdivided into three fields: (1) Track, roadbed, and associated devices and structures, (2) equipment, and (3) human factors. FRA has now exercised its statutory authority with respect to each of these regulatory fields by actual rulemaking. While it is expected that additional regulatory initiatives may be undertaken, as necessary, in each of the major regulatory fields, it is the judgment of the agency that piecemeal regulation of individual hazards in any of the three regulatory fields by any other agency of government would be disruptive and contrary to the public interest. Should it be demonstrated that further specific regulatory action is required prior to the completion of an FRA rulemaking addressing a given class of hazards within one of the three major fields, FRA will not hesitate to employ its emergency powers or to initiate special-purpose proceedings directed to the solution of individual problems.

Therefore, as the primary regulatory agency, FRA has exercised and continues to exercise its jurisdiction over the safety of railroad operations. The following discussion will describe the dimensions of the three regulatory fields presently occupied by FRA. In addition, the regulation of employee sleeping quarters and transportation of hazardous materials are discussed as separate problem areas. The discussion is designed to be illustrative rather than exhaustive.

TRACK, ROADBED AND ASSOCIATED STRUCTURES AND DEVICES

The FRA Track Safety Standards (49 CFR Part 213) prescribe geometric and other technical standards for track structures and roadbed and require a program of inspections. While standards have not been issued related to the dimensions or structural integrity of bridges, tunnels or other similar structures, FRA is exercising its authority with respect to the operational safety of such structures through inspections in response to specific requests and may undertake rulemaking proceedings at a future date. FRA has affirmatively determined that issuance of Federal regulations governing walkways on bridges is not warranted based on the projected cost of installation and the collateral safety problems which would be created (42 FR 22184; May 2, 1977).

FRA administers and enforces the Signal Inspection Act (49 U.S.C. 26), which provides the agency plenary authority over the installation, modification, inspection and maintenance of all signal systems and related systems and appliances. FRA has issued regulations concerning false proceed reporting (49 CFR Part 233), applications for the discontinuance or modification of systems (49 CFR Part 235), and general inspection and maintenance standards (49 Part 236).

EQUIPMENT

FRA administers and enforces the Safety Appliance Acts (45 U.S.C. 1-16), which were first enacted in 1893. These statutes, which are among the earliest Federal enactments bearing on occupational safety, require certain appliances such as automatic couplers, secure grab irons, and power brakes on all cars and locomotives. FRA and its predecessor agency have implemented these statutes with regulations detailing how safety appliances shall be designed and affixed (49 CFR Part 231) and prescribing inspection and maintenance standards for power brakes (49 CFR Part 232).

FRA is also responsible for carrying out the responsibilities of the Secretary under the Locomotive Inspection Act (45 U.S.C. 22-34). This statute requires that locomotives and appurtenances thereto be safe and suitable for the service to which they are put. FRA exercises its authority under the law by enforcing extensive regulations (49 CFR part 230) and by removing unsafe locomotives from service (49 CFR part 216).

The Freight Car Safety Standards (49 CFR part 215) are detailed regulations concerning the proper maintenance and inspection of freight cars which were issued in 1973 under the Federal Railroad Safety Act of 1970. Specific regulations have also been issued requiring rear end marking de-

vices on freight and passenger trains (42 FR 2321; January 11, 1977). Public comment has been requested on the need for improved glazing materials in windows of locomotive cabs, passenger cars, and cabooses (42 FR 13309; March 10, 1977). FRA may, in the future, prescribe additional safety standards for railroad caboose cars (see FR 19359; April 13, 1977) and passenger cars. In the meantime, FRA will exercise its authority over the safe use of such cars in railroad operations through its emergency powers and special proceedings, as may be necessary in the judgment of the Administrator.

HUMAN FACTORS

The control of human factors which impact on the safety of railroad operations is the most complex and difficult of the three regulatory fields which are being addressed under the Federal Railroad Safety Act of 1970. However, FRA, with the cooperation of interested parties, has made major strides in addressing the most serious areas of concern related to this facet of railroad operations. A broad survey of railroad operating rules and practices (including employee training and testing) has been initiated through mandatory filing of specified information; and railroads have been required to conduct programs of instruction, operational tests, and inspections to enforce compliance with their own safety rules (49 CFR part 217). Initial uniform operating rules pertaining to the protection of employees working between or under rolling equipment, operations within yard limits, and rear flag protection have now been issued (49 CFR part 218). See 42 FR 2318; January 11, 1977, and 42 FR 5059; January 27, 1977. Procedures governing the use of radio communications and rules governing the issuance of train orders by radio have also been adopted (49 CFR part 220, issued at 42 FR 5065; January 27, 1977).

FRA also administers and enforces the Hours of Service Act (45 U.S.C. 61-64b), which limits the hours of service of certain major categories of employees who are engaged in or connected with railroad operations. (See discussion below on Employee Sleeping Quarters.)

Again, FRA will continue to study the need for further rulemaking in the field of human factors. In the meantime, FRA will continue to exercise its authority over railroad operations by enforcing standards already published, by utilizing its emergency powers, by promoting adherence to carrier safety rules, and by instituting any special proceedings which may be deemed necessary. As the primary regulatory agency in the area of railroad operations, it will be the responsibility of FRA to evaluate what further Federal action may be required.

EMPLOYEE SLEEPING QUARTERS

Section 2(a)(3) of the Hours of Service Act (45 U.S.C. 62(a)(3)) makes it unlawful for any railroad to provide sleeping quarters for employees covered by the Act which are "not clean, safe, and sanitary" or which do not provide an opportunity for rest free from interruptions caused by noise within the control of the railroad. As the agency charged by statute and delegation with administering the Act, FRA necessarily exercises its authority over facilities covered by the statute with respect to safety hazards caused both by railroad operations and by conditions common to dormitory facilities in general. In addition, agency enforcement of the provision as it relates to cleanliness and sanitation constitutes an exercise of authority with respect to occupational health issues. In exercising its authority, FRA draws on its own expertise and that of other Federal agencies.

It should be noted that the Hours of Service Act does not apply to sleeping quarters provided for employees who are not subject to the Act. Therefore, OSHA has jurisdiction over most conditions in quarters provided for maintenance-of-way employees. However, if those quarters happened to be camp or bunk cars (railroad cars outfitted as temporary lodgings), FRA and OSHA would both have a role to play. FRA would be responsible for the condition of the cars under the Safety Appliance Acts and Freight Car Safety Standards and would resolve any other issues relating to operational hazards. OSHA would be responsible for investigating and regulating allegedly deficient interior conditions of the kind which would be common to fixed facilities.

Section 2(a)(4) of the Hours of Service Act (45 U.S.C. 62(a)(4)) provides that newly constructed or reconstructed employee sleeping quarters may not be located within the immediate vicinity of switching or humping operations, as determined in accordance with rules issued by the Secretary. Acting for the Secretary, FRA presently exercises this authority through interim rules (41 FR 53028; December 3, 1976.)

DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGULATIONS

FRA enforces the Department's comprehensive Hazardous Materials Regulations with respect to the carriage or shipment of hazardous materials by rail (see 49 CFR parts 171-174, 179). Those regulations contain numerous provisions which are either designed to assure the occupational safety of employees engaged in railroad operations or which have that effect.

C. OSHA JURISDICTION

As noted above, FRA has determined that a territorial approach to the exer-

cise of its statutory jurisdiction over railroad safety such as that proposed in the NPRM would deplete energies and resources better devoted to the safety of railroad operations. If FRA were to address all occupational safety and health issues which arise in the railroad yards, shops, and associated offices, the agency would be forced to develop a staff and field capability which, to an extent, would duplicate the capability already possessed by OSHA. In view of this situation, FRA recognizes that OSHA currently is not precluded from exercising jurisdiction with respect to conditions not rooted in railroad operations nor so closely related to railroad operations as to require regulation by FRA in the interest of controlling predominant operational hazards.

The following survey of OSHA standards is intended to aid the railroad industry in evaluating the breadth of FRA's exercised jurisdiction by contrasting the roles of FRA and OSHA. This discussion cannot be regarded as definitive, since considerable experience in adjusting the relationship of FRA and OSHA standards will likely be required before an optimum Federal regulatory program can be achieved. All statements concerning OSHA and FRA authority and the applicability of individual regulations should be regarded as statements of general principle.

Again, in reading this discussion it should be kept in mind that to the extent matters addressed by the OSHA regulations are connected with or relate to railroad operations and may interact with or create operational hazards, it may be necessary for FRA and OSHA to consult concerning the interpretation or modification of such standards. As the primary regulatory agency concerned with railroad safety, FRA will not hesitate to adopt its own standards to assure a safe environment for railroad operations and to promote regulatory consistency.

GENERAL INDUSTRY STANDARDS

The areas discussed below correspond to subparts in the Occupational Safety and Health Standards (29 CFR Part 1910). FRA is aware that OSHA has proposed revocation of certain of these standards (42 FR 62734; December 13, 1977). However, since it is not possible to project at this time what final action OSHA might take with respect to individual provisions, this discussion addresses the OSHA regulations currently in effect.

WALKING-WORKING SURFACES (SUBPART D)

OSHA regulations concerning working surfaces deal with such matters as ladders, stairways, platforms, scaffolds and floor openings. Generally, these regulations are applicable in railroad

offices, shops, and other fixed work places. There are three principal exceptions to the rule. First, they would not apply with respect to the design of locomotives and other rolling equipment used on a railroad, since working conditions related to such surfaces are regulated by FRA as major aspects of railroad operations.

Second, as the agency which has exercised jurisdiction over railroad operations, FRA is responsible for the safe movement of rolling stock through railroad repair shops. OSHA requirements for general industry are in some respects inconsistent with the optimum safety of employees in this unique environment where hazards from moving equipment predominate. Therefore, OSHA regulations on guarding of open pits, ditches, etc., would not apply to inspection pits in locomotive or car repair facilities. FRA is better equipped to assess proper clearance technology and employee knowledge of existing industry practices as well as the prevalence and severity of hazards represented by specific injury occurrence codes in accident/incident reporting statistics. FRA is responsible for determining what additional regulatory steps, if any, may be necessary in this area in light of overall safety considerations.

Third, the OSHA regulations would not apply to ladders, platforms, and other surfaces on signal masts, cantenary systems, railroad bridges, turntables, and similar structures or to walkways beside the tracks in yards or along the right-of-way. These are areas which are so much a part of the operating environment that they must be regulated by the agency with primary responsibility for railroad safety. Therefore, FRA will determine the need for and feasibility of general standards to address individual hazards related to such surfaces, keeping in mind the requirement of proper clearances and the familiarity of employees with existing industry designs. It should be noted that FRA and its predecessor agency have traditionally required the correction of defective ladders and walkways on signal structures under the authority of the Signal Inspection Act (49 U.S.C. 26(e)). Further, the FRA Track Safety Standards require the control of vegetation growth immediately adjacent to roadbed which might interfere with employees performing normal trackside duties (49 CFR § 213.37). FRA will not hesitate to use its emergency powers to achieve the correction of other, similar problems.

MEANS OF EGRESS (SUBPART E)

By their own terms, OSHA regulations concerning egress do not apply to rolling equipment. However, the regulations do apply to the extent of the regulatory language to fixed rail-

road facilities other than employee sleeping quarters covered by the Hours of Service Act, as amended.

POWERED PLATFORMS, MANLIFTS, AND VEHICLE-MOUNTED WORK PLATFORMS (SUBPART F)

OSHA regulations apply according to their terms to the railroad industry. A work platform would be regulated by OSHA, even if mounted on an on-track vehicle. It should be noted that the OSHA regulation does not apply to the vehicle on which such a platform is mounted. See 29 CFR § 1910.67(b)(3). FRA is responsible for all vehicles that are utilized on tract during the period of such usage. However, FRA will work with OSHA, if appropriate, to assure that both transportation and industrial hazards are adequately addressed. (See discussion under "Materials Handling," below.)

OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROL (SUBPART G)

These rules impose certain standards related to ventilation, occupational noise exposure, and radiation. The rules apply according to their own terms in the railroad industry, with the following exceptions.

First, the OSHA ventilation standards (29 CFR § 1910.94) do not contain any provisions which address hazards growing out of railroad operations, as such. By their terms, they have no application to locomotive cab or caboose environments, to passenger equipment, or to operational situations in yards or along the right-of-way.

Second, FRA views the question of occupational noise exposure of employees engaged in railroad operations, during their involvement in such operations, as a matter comprehended by the regulatory fields over which FRA has exercised its statutory jurisdiction. FRA is therefore responsible for determining what exposure levels are permissible, what further regulatory steps may be necessary in this area, if any, and what remedial measures are feasible when evaluated in the light of overall safety considerations. FRA's exercise of jurisdiction in this area is evidenced, in part, by the issuance of noise compliance regulations (42 FR 42343; August 23, 1977, issuing 49 CFR Part 210) which will be utilized by FRA to enforce the Environmental Protection Agency (EPA) Railroad Noise Emission Standards (40 CFR Part 201). In addition, locomotive cab noise affecting the ability of crew members to perform their functions as a result of impaired hearing would contravene the Locomotive Inspection Act (45 U.S.C. 22-34). See *Napier v. Atlantic Coast Line R.R.*, 272 U.S. 605 (1926).

Over the past several years, FRA and the Department of Transportation

have performed extensive testing of noise conditions in locomotive cabs and cabooses. FRA is currently gathering additional data on noise levels in cabooses with a view to possible rule-making (42 FR 19359; April 13, 1977).

Any review of further remedial measures in the area of occupational noise exposure in locomotive cabs and cabooses must take into account the need to preserve the alertness of employees to rail transportation hazards affecting the employees, passengers and the general public along the right-of-way. Only the primary regulatory agency in the area of railroad safety is equipped to evaluate these considerations and to fashion appropriate solutions. The same considerations apply to employees' exposure to retarder noise and other noise emanating primarily from railroad operations.

As a result of a recent court decision, EPA is developing, in consultation with FRA, standards setting limits on noise emanating from fixed equipment and facilities of interstate rail carriers, in addition to the rolling stock already covered. FRA will be enforcing these standards as well. See *Association of American Railroads v. Costle*, 562 F.2d 1310 (D.C. Cir. 1977).

However, FRA believes noise exposure in shop areas and other areas where there are multiple noise sources is a qualitatively different issue, since abatement options will be more varied and noise sources will often include power tools and other industrial implements. Therefore, FRA recognizes the applicability of OSHA standards in shop areas, offices and other settings in which "industrial" noise emissions predominate or where exposure may be limited without the potential disruption of safe transportation activities.

As suggested above, maximum permissible noise emission levels for rail equipment have already been determined by EPA in consultation with FRA. These emission levels, measured as set forth in the EPA standards, should be recognized by OSHA as establishing the parameters of "feasible administrative or engineering controls" with respect to rail equipment, including locomotives, when such equipment is situated in a railroad shop or enginehouse. See 29 CFR 1919.95(b)(1). FRA will work with OSHA to evaluate the prudence of requiring personal protective equipment to reduce noise exposure in those settings where employees may be subjected to more serious hazards associated with railroad operations.

Pursuant to the mandate of section 2(a)(3) of the Hours of Service Act (45 U.S.C. 62(a)(3)), FRA also regulates noise exposure in the sleeping quarters of employees subject to the Act.

HAZARDOUS MATERIALS (SUBPART H)

The transportation of hazardous materials by rail is governed wholly by

Department of Transportation Regulations (Chapter I, Title 49, Code of Federal Regulations). However, the OSHA regulations apply according to their terms in those circumstances where the Department of Transportation Regulations do not apply (i.e., to the use, handling and storage of hazardous substances in most work situations). To the extent working conditions may be affected by both (1) the shipment and carriage of hazardous materials and (2) the storage or use of such materials prior to their introduction into the stream of transportation, FRA will endeavor to work cooperatively with OSHA to assure the coherent and comprehensive regulation of this subject matter. See *American Airlines*, 3 OSHC 1624 (OSAHRC Docket No. 9362, 1975).

PERSONAL PROTECTIVE EQUIPMENT (SUBPART I)

OSHA regulations concerning personal protective equipment apply according to their terms, except to the extent the general requirements might be read to require protective equipment responsive to hazards growing out of railroad operations. For instance, OSHA could not prescribe attire designed for mandatory use of an employee while involved in uncoupling cars or operating a locomotive. Close OSHA-FRA cooperation will be required to ascertain whether requiring the use of certain protective equipment by persons working along the railroad right-of-way, without additional requirements assuring attention to rail transportation hazards, may tend to aggravate such hazards by obscuring vision or muffling the noise of approaching trains. If necessary, FRA will not hesitate to issue regulations placing conditions on the use of protective equipment in such circumstances or otherwise regulating its use.

GENERAL ENVIRONMENTAL CONTROLS (SUBPART J)

The regulations classified by OSHA as "General Environmental Controls" relate to sanitation, temporary labor camps, color codes for marking physical hazards, and specifications for accident prevention signs and tags. The provisions concerning sanitation (29 CFR 1910.141, 1910.143) generally apply to railroad work places. However, it should be noted that the regulations themselves contain certain limited exclusions for "mobile crews" and "normally unattended work locations as long as employees have transportation immediately available to nearby toilet facilities". See 29 CFR §§ 1910.141 (c)(1)(ii), 1910.143(a)(1). Certain areas of FRA/OSHA jurisdictional overlap do exist. For instance, under the Locomotive Inspection Act FRA must ascertain whether a locomotive and all its appurtenances are

"in proper condition and safe to operate." In view of proposed rulemaking action by both FRA and OSHA which could affect the resolution of this issue, it will be necessary for FRA and OSHA to consult concerning the most effective means of addressing sanitation on occupied rolling equipment. See, in addition, Part 1250 of Title 21, Code of Federal Regulations (Food and Drug Administration regulations on Interstate Conveyance Sanitation).

Theoretically, OSHA standards concerning temporary labor camps (29 CFR § 1910.142) apply according to their terms to specified facilities except those subject to FRA jurisdiction under section 2(a)(3) of the Hours of Service Act (45 U.S.C. 62(a)(3)). However, the railroad industry does not utilize temporary labor camps in the sense apparently intended by the OSHA regulation. It is not anticipated that there will be any conflict between the requirements of the two agencies.

OSHA regulations establishing a color code for physical hazards (29 CFR § 1910.144) apply according to their terms to hazards other than those arising out of railroad operations. Railroads are encouraged to use the code to identify hazards arising out of railroad operations whenever practicable.

The OSHA specifications for accident prevention signs and tags do not cover safety signs designed for railroads (29 CFR § 1910.145(a)(1)).

MEDICAL AND FIRST AID (SUBPART K); FIRE PROTECTION (SUBPART L)

The OSHA regulations apply according to their terms except with respect to fire protection on rolling stock. Although FRA has not published specific "fire protection" standards denominated as such, FRA standards for locomotive inspection and maintenance contain provisions designed, in part, to prevent fires (49 CFR Part 230). The Locomotive Inspection Act (45 U.S.C. 22-34) requires FRA inspectors to make general determinations concerning whether locomotives are in "proper conditions and safe to operate in the service to which the same are put." In addition, the FRA Freight Car Safety Standards (49 CFR Part 215) contain requirements which are designed to prevent overheated journals, historically a frequent cause of both fires and derailments. Additional study may result in the issuance of additional specific requirements, as the need for and feasibility of such requirements are demonstrated. Again, as the primary regulatory agency exercising responsibility for railroad safety (including the safety of employees engaged in railroad operations), FRA must make those determinations.

COMPRESSED GAS AND COMPRESSED AIR EQUIPMENT (SUBPART M)

The OSHA regulations apply according to their terms, except that (1) the

Department of Transportation Hazardous Materials Regulations control and shipment and transportation of compressed gas and (2) use of compressed gas in the course of railroad operations falls within FRA's current exercise of jurisdiction. The OSHA regulations contain an exclusion for compressed air machinery used on transportation vehicles (29 CFR § 1910.169(a)(1)).

MATERIALS HANDLING AND STORAGE (SUBPART N)

The OSHA regulations apply according to their terms, with two exceptions. First, the general requirements of 29 CFR § 1910.176 have no application to the operations of railroads in the general system of transportation by virtue of FRA's exercise of authority.

The second exception pertains to locomotive cranes and other on-track vehicles which are used for maintenance of way and other purposes. Such vehicles necessarily play an important part in the safety of railroad operations. Locomotive cranes and other on-track vehicles used to haul other rail equipment are subject to the requirements of the Locomotive Inspection Act, which is enforced by FRA. The Safety Appliance Acts may also apply. (See 45 U.S.C. 8; 49 CFR §§ 231.25, 231.26.) OSHA has recognized the special problems of regulation in the railroad environment by explicitly excluding locomotive cranes used in wrecking service from the coverage of its standards (29 CFR § 1910.180(b)(1)). Generally, the provisions of the OSHA rule are inappropriate for the railroad environment. This is an area in which consultations between the two agencies will be necessary to assure appropriate regulation of the subject matter.

MACHINERY AND MACHINE GUARDING (SUBPART O); HAND AND PORTABLE POWERED TOOLS AND OTHER HAND- USED EQUIPMENT (SUBPART P); WELD- ING, CUTTING AND BRAZING (SUBPART Q); ELECTRICAL (SUBPART S)

The OSHA regulations apply according to their terms in railroad shops and other work places, note that 29 CFR § 1910.308(c)(2) (electrical standards) excludes rail rolling stock and electrified rail systems.

TOXIC AND HAZARDOUS SUBSTANCES (SUBPART Z)

The OSHA regulations apply according to their terms, except with respect to the shipment or transportation of hazardous materials, which is controlled by the Department of Transportation Hazardous Materials Regulations, and the regulation of air contaminants in locomotive cab and caboose environments.

It is the judgment of FRA that the exposure of operating employees to air

contaminants in the locomotive cab or caboose environment is an issue integrally related to the ability of employees to perform their duties and to the regulation of the rail equipment itself. Thus, air contaminant exposure in those particular environments must be viewed as a concern within two of the regulatory fields over which FRA has exercised jurisdiction (rail equipment, human factors). Specific FRA regulations bearing on the locomotive cab environment address cab ventilation (49 CFR § 230.229(f)(2)) and exhaust gases (49 CFR § 230.259). In addition, as noted above, the Locomotive Inspection Act prescribes a general requirement that each locomotive be safe and in proper condition. The current FRA proceeding on minimum safety standards for caboose cars includes an inquiry into the specific problem of crew exposure to air contaminants (42 FR 19359; April 13, 1977).

It should be noted that significant research has been done by FRA and other organizations concerning exposure to air contaminants in railroad operations. Additional research is ongoing. Thus far it appears that exposure levels in normal operating situations are well within the values set forth in the current OSHA standards, even in "worse-case" situations such as long railroad tunnels. See Hobbs et al., *Train Generated Air Contaminants in the Train Crew's Working Environment*, Report No. FRA/ORD-77/08 (1977). However, it is possible that situations may exist in which short-term exposure which meets OSHA standards may still affect the ability of employees properly to perform their duties and may cause serious discomfort. Therefore, FRA will continue to develop data on individual situations and may use its statutory powers to address any situation in which a carrier might decline to take voluntary remedial action.

CONSTRUCTION STANDARDS

Section 1910.12 of OSHA's General Industry standards provides that the standards contained in 29 CFR Part 1926 relating to construction work are adopted as regulations under section 6 of the OSH Act and shall apply to every "employment" engaged in construction work. "Construction work" is broadly defined to include construction, alteration, and/or repair, including painting and decorating. To the extent that hazardous construction working conditions do not fall within FRA's exercise of authority relating to the safety of railroad operations, the OSHA standards apply according to their terms in the railroad industry.

D. CONCLUSION

The foregoing discussion of FRA's view of the proper role for it to play

with respect to the railroad industry in the overall Federal occupational safety and health regulatory scheme is intended to assist all interested parties in their efforts to determine the extent to which FRA regulations and OSHA regulations will apply to working conditions within the railroad industry. As was stated earlier in this notice, the primary intent of FRA is to assure an effective and coherent railroad occupational safety and health program. We believe the policy set forth in this document will assure that each of the principal Federal agencies charged with the responsibility for carrying out this program, that is, FRA and OSHA, will concentrate its efforts in those areas in which it possesses the greatest experience and expertise. In those cases in which there may be some question as to which is the primary regulatory agency, cooperative efforts between the two agencies should avoid the creation of regulatory gaps on the one hand, or unnecessary duplication on the other. At any time that a hazardous working condition impacts upon the overall safety of railroad operations, FRA will take the initiative in developing a proper regulatory response.

The primary program drafter of this document is Stephen Urman of the Office of Safety. The primary legal drafters are Ann-Marie Hyland and Grady Cothen, Jr. of the Office of Chief Counsel.

AUTHORITY: Sec. 202, 84 Stat. 971, 45 U.S.C. 431 and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

The termination contained in this notice is effective on publication.

Issued in Washington, D.C., on March 10, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-6749 Filed 3-13-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 26]

PUBLIC ENTRY AND USE

Back Bay National Wildlife Refuge, Va.

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Department of the Interior is considering the revision of regulations governing public access,

use, and recreation on the Back Bay National Wildlife Refuge. Prior regulations were published in the *FEDERAL REGISTER* May 6, 1977 (42 FR 23151-23155). These regulations provide for limitations on vehicular access to the Back Bay National Wildlife Refuge. This action is necessary to protect the ecosystem along the refuge beach.

DATE: Comments on this proposed rulemaking will be accepted until April 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Mass. 02158, 617-965-5100, Extension 200.

ADDRESS: Send comments to: U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Mass. 02158.

SUPPLEMENTARY INFORMATION: These proposed regulations are basically the same as those in effect for 1977 with minor clarification and modification.

BACKGROUND

For many years the Back Bay National Refuge was open to the public for a number of purposes, and free access to the beach by vehicles was permitted.

In 1961, persons using the refuge for various purposes numbered less than 10,000. During the late 1960's the development of lands south of the refuge for recreational residential purposes, and the increase in the availability and popularity of off-road recreational vehicles resulted in a sharply accelerated rate of public activities.

By 1970 the number of persons using the refuge had increased to 235,000, and in 1971, to 348,000. All but a small fraction of this increase involved off-road vehicular use over the ocean beach portion of the refuge.

By 1969 it became evident that total public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes.

Following careful analysis it was determined that certain controls of vehicular uses of the beach were required to reverse the trend of refuge habitat destruction.

On January 12, 1972, the Fish and Wildlife Service provided notice in the *FEDERAL REGISTER* that the Back Bay National Wildlife Refuge would be closed to use by unauthorized vehicles. This action was necessary to protect the ecosystem along the refuge beach. Environmental Impact Statement 72-33 was finalized on December 29, 1972. This document fully assessed the impacts of this restriction. Final regula-

tions were published in March 1973 that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued to property owners in the proposed False Cape State Park area. Permanent full-time residents of the Outer Banks in North Carolina and their visitors, commercial fishermen, emergency, service and utility vehicles and school buses. Implementation of the access regulations was followed by legal action in a suit against the Service in the District Court for the Eastern District of Virginia. A final decision was handed down by Judge John MacKenzie on February 26, 1975, fully upholding the authority of the Secretary of the Interior to control vehicular access across the Back Bay Refuge. In his opinion and order, Judge MacKenzie stated that "... continued and rapidly escalating use of the refuge beach as a traffic corridor ... is inimicable to the use of the property as a wildlife refuge and is a depredation of the purpose of the property as a wildlife refuge." This order was ultimately upheld by the 4th Circuit Court of Appeals in a decision issued July 7, 1975.

The matter of regulating beach use at Back Bay National Wildlife Refuge continued to be the subject of considerable discussion and consternation by the many persons denied vehicular access to recreational properties in North Carolina. On July 29, 1976, liberalized regulations were published which provided limited access eligibility to all persons who as of October 6, 1975, owned improved property on the Outer Banks of Currituck County, N.C., to and including the village of Corolla, N.C., and not just permanent residents of the area as the previous regulations had provided.

In order to mitigate the increased adverse impact of travel on the beach by these additional permittees, it was necessary to place more restrictions, reduced travel periods and number of round trips per day on the permanent full-time residents living between the south boundary of the refuge and the village of Corolla, N.C. Based on the hardships imposed on the permanent full-time residents by the 1976 regulations and permit program management experience gained during 1976, 1977 regulations were developed to provide access only to these permanent full-time residents and to liberalize travel restrictions which created a degree of hardship on them under the 1976 regulations.

It is proposed to amend § 26.34 as follows:

§ 26.34 Special regulations concerning public access, use and recreation for individual wildlife refuge areas.

VIRGINIA

BACK BAY NATIONAL WILDLIFE REFUGE

(a) *General use.* (1) Entry on foot or by motor vehicle on designated routes in public use areas is permitted for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming, and bicycling during daylight hours.

(2) Swimming and surfing are permitted only on that portion of the beach lying between the north boundary of the refuge and the dune crossing at field headquarters. No life-guards are provided. Swimming and surfing will be at the visitor's own risk.

(3) The parking lot at the field headquarters is available on a first come first served basis for persons engaged in surf fishing and nature study. Surf fishing is permitted in accordance with applicable State regulations.

(4) Open fires are not permitted. Portable grills with a contained fuel supply are permitted on the beach north of the field headquarters.

(5) Pets on a leash not exceeding 10 feet in length are permitted on refuge public use areas.

(6) Bicycles and registered motor vehicles are permitted on the paved refuge access road and on the parking area at field headquarters. All other types of motorized vehicles are prohibited except as specifically authorized pursuant to these regulations.

(b) *Access Permits.* (1) Access to and travel along the refuge beach by motorized vehicles may be allowed between the dune crossing entrance at the field headquarters and the south boundary of the refuge only after a permit has been issued by the Refuge Manager or his designated representative. No permit will remain in effect beyond December 31 of the year in which it is issued. Permits may be renewed upon the submittal of a signed, notarized statement that conditions of previous permit have not changed. Vehicular access through the refuge will be permitted only until alternative access is developed or December 31, 1979 whichever occurs first.

(2) Permits must be permanently displayed at all times while on refuge property in such a manner as to be readily visible on any motor vehicle. Permits shall be non-transferable. No more than two vehicles owned by the permit holder shall be registered with the Refuge Manager for use in accordance with these regulations. Those vehicles shall be operated on the refuge beach only by the permittee or immediate family members residing with the permittee. No more than two permits may be issued for an improved property meeting the specified quali-

cations having more than one owner of record as of October 6, 1975, provided that such owners are not in the same immediate family, i.e. spouse or minor children.

(3) Permits may be issued as follows:

(i) *Residential.* (A) To persons holding written permission from the State of Virginia to use land with permanent habitable dwelling, south of the refuge in the False Cape State Park acquisition area, Virginia.

(B) To owners as of October 6, 1975, of improved property on the Outer Banks of Currituck County, N.C., from the North Carolina line south to and including the village of Corolla, N.C., which improved property meets the following criteria:

(1) *Mobile Home:* A mobile home with minimum dimensions of 8' x 32' located on a lot prior to March 2, 1972, and for which ad valorem property taxes for 1975 had been paid as of December 31, 1975.

(2) *Dwellings:* A habitable abode that was properly listed on the tax rolls of Currituck County, N.C., by January 31, 1976, for payment of taxes in excess of those paid on unimproved land. Such property improved prior to 1975 shall have been listed on the tax rolls in 1975, and have had taxes paid by December 31, 1975, in accordance with State law, in order for the owner to qualify for a permit.

(C) To permanent, full-time residents who can furnish proof of residency prior to December 31, 1976 on the Outer Banks from the refuge boundary south to and including the village of Corolla, N.C., as long as they remain permanent full-time residents. Residence is defined as the dwelling in which the permit applicant lives year round on a full time basis.

The burden of proof of showing that the prospective permittee meets these criteria shall be on the prospective permittee by presentation of appropriate documentation.

Such permitted vehicles shall be restricted to two round trips per day except that no more than sixty one-way trips per year will be permitted for those persons qualifying under (b)(3)(i)(B) above. Travel is restricted to the designated route of travel between the hours of 5 a.m. to 11 p.m. The Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for access relating to health or livelihood.

(ii) *Non-residential.* (A) To full-time commercial fishermen who have verified their dependence for a livelihood since on or before 1972 upon ingress, egress or crossing refuge land. Not more than three (3) special use permits for commercial fishing on the refuge will be in force at one time. Selection of refuge fishing permits will

be determined by lottery when the number of qualified applicants, as described above, exceeds the number of permits available.

A commercial fisherman is described as one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

(B) For a school bus transporting students residing in the False Cape State Park acquisition area to and from the False Cape area during the school term.

(C) For service vehicles on business calls during the hours of 8 a.m. to 5 p.m. Monday through Friday, upon written verification of a request from a resident as described in (b)(3)(i) above.

Service vehicles: Any vehicle owned or operated by or on behalf of an individual, partnership, or corporation engaged entirely in the business of furnishing construction, maintenance, or repair services, including but not limited to building, plumbing, septic tanks, installation or repair of household appliances, carpentry, painting, landscaping, garbage collection, and delivery services.

(4) Excluded from the restrictions of these regulations are any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; vehicles used by an employee, agent, or designated representative of the Federal, State or local government in the course of his official duties, and public utility vehicles on official business. A public utility vehicle is described as any vehicle owned or operated by a public utility company franchised to supply Outer Banks residents with electricity or telephone service.

(5) In an emergency, the Refuge Manager may suspend for such period or periods as he shall deem advisable, any or all of the foregoing restrictions on vehicular travel and he may announce such suspension by whatever means are available. In the event of high winds and waves, storms, adverse weather conditions or high tides, the Refuge Manager may close all or any portion of the refuge to vehicular travel for such period as he shall deem advisable in the interest of public safety, or may adjust the periods of access otherwise prescribed pursuant to (b)(3)(i) above.

(6) (i) The Refuge Manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

(ii) All vehicles registered with the Refuge Manager must be equipped with four-wheel drive or oversand tires and carry at all times on the refuge beach a shovel, jack, tow rope or chain, board or similar support for the

jack, low-pressure tire gauge and spare tire.

(7) Violators of these special regulations or any regulations pertaining to Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the Refuge Manager of such permits for the duration of the permit period. Individuals whose vehicle access privileges have been suspended or denied may appeal such action pursuant to 50 CFR 25.44 (42 FR 64120, December 22, 1977).

(8) All permits issued under (b)(3)(i) will be terminated in the event that alternate access is provided during the permit period.

(9) The provisions of this special regulation are effective through December 31, 1979. They supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in title 50.

The refuge, comprising approximately 4,600 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Office Park, Pembroke No 2 Building, Suite 218, Virginia Beach, Va. 23462 and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

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

WILLIAM A. ASLE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

JANUARY 26, 1978.

[FR Doc. 78-6568 Filed 3-13-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 285]

ATLANTIC TUNA FISHERIES

Bluefin Tuna

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed rulemaking.

SUMMARY: National Marine Fisheries Service proposes to amend its regulations on fishing for Atlantic bluefin tuna. These proposed regulations modify annual catch quotas, seasons,

reporting requirements, and inspection requirements for United States vessels. These regulations are intended to implement the recommendations of the International Convention for the Conservation of Atlantic Tunas (ICCAT).

DATES: Written comments may be submitted on or before April 14, 1978. Public hearings will be held on the dates and at the times indicated below to receive public comments on the proposed amendments:

March 20—Warwick, R.I. (7-9 p.m.)
March 21—Peabody, Mass. (7-9 p.m.)
March 22—Brunswick, Maine (7-9:30 p.m.)
March 23—Point Pleasant, N.J. (7-9 p.m.)
March 27—Norfolk, Va. (7-9 p.m.)

ADDRESS: Written comments may be submitted to the Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930. Public hearings:

March 20—Howard Johnsons Motor Lodge (7-9 p.m.), Jefferson Boulevard, Warwick, R.I., 401-9800.
March 21—Holiday Inn (7-9 p.m.), Route 1 Peabody, Mass. 617-535-4600.
March 22—Holiday Inn (7-9:30 p.m.), Cooks Corner, Brunswick, Maine, 202-729-3317.
March 23—Kings Grant (7-9 p.m.), River Road, Point Pleasant, N.J., 201-899-9000.
March 27—Omni International Hotel (7-9 p.m.), 777 Waterfront Drive, Norfolk, Va., 804-622-6664.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

These regulations are intended to implement the recommendations of the International Convention for the Conservation of Atlantic Tunas (ICCAT). Subpart B was first promulgated on May 18, 1976 (41 FR 32604) and subsequently amended and repromulgated on June 14, 1977 (42 FR 30373). The changes that are being proposed in this publication are explained below, in order that they might be read in context, Subpart B is being republished in its entirety.

DISCUSSION OF THE MAJOR CHANGES

QUOTAS

The annual allowable take of giant bluefin tuna (in excess of 300 pounds) has been increased from 2,000 to 2,250 fish (Section 285.13(b)(1)). The 150 giant quota for areas south of Gay Head Light will continue and the 250 additional tuna will be added to the north of Gay Head quota. There was no increase in the southern quota because recent catch statistics indicate that the present quota of 150 has not

been exceeded. The quotas for medium and school tuna have not been changed and the prohibition against catching school tuna under 14 pounds has been continued.

SEASONS

The dates during which only one giant bluefin tuna per day can be landed have been changed from January 1 through August 13, to June 24 through September 9. The dates for more limited catch (June 24 through September 9) were selected to coincide with the increased effort during the summer months. This reduced period of take is intended to allow for continued fishing throughout the summer, thereby increasing the opportunity to fish for giant bluefin. Such a measure should ensure that the total quota for giant bluefin will not be taken until after September 9. The opening of the season for purse seining for giant bluefin tuna has been changed from September 1 to September 9, in order to allow recreational fishermen a greater opportunity to catch giants during the summer months and to minimize possible gear conflicts.

TAGGING REQUIREMENTS

There have been a number of difficulties in the past with monitoring and enforcing the various tagging requirements of the regulations. In order to alleviate these problems, three changes are being proposed. (1) Section 285.17(d) includes a diagram specifying the location on the tuna where the tag is to be inserted. This diagram will be included in the logbooks as well. (2) Section 285.17(d) has been modified to make it unlawful to transfer a giant bluefin from the taking vessel without a tag. The previous regulation required the tuna to be tagged when it was in possession. In some instances live tuna were in possession, making tagging a dangerous procedure. (3) The proposed regulations would allow for the removal of the tag from any portion of the fish. The existing regulation allows for removal only before commercial sale or export. Some commentators have suggested that this prohibits the removal of the tag from tunas or portions thereof intended for home consumption. The removal of the commercial sale limitation is intended to resolve this problem.

STATISTICS

The proposed amendments (§ 285.18(c)) would require fishermen to supply the length of a fish measured from the tip of the snout to the fork of the tail, in addition to the round or dressed weight. The proposed amendments provide for possible exemption for individuals from the requirement of keeping a log book, so

long as they are reporting catch and fishing effort information in a form acceptable to a constituent body of the National Marine Fisheries Service other than the Northeast Regional Office (§ 285.18(d)). This must be accomplished with the written concurrence of the Northeast Region.

DEFINITIONS

Section 285.1 has been amended to include definitions of the terms short and metric ton and dressed weight. An addition continued reference to size classes of tuna, (i.e., over 300 lbs. for giants) has been eliminated and definitions for the three major classes added (giant, medium and school).

BUY AND TRANSPORT VESSELS

Some individuals have suggested that a provision be added to specifically allow for transport vessels to buy and partially process giant tuna. This provision would allow process vessels to purchase freshly caught and tagged tuna at sea, behead and eviscerate the tuna and transport it to shore for subsequent sale. Transport vessels would be required to obtain a dealers permit and would be barred from catching giant tuna. No specific statutory language has been included in the proposed amendments; however, public comments are requested on the advisability and form such a provision might take.

RELATIONSHIP TO OTHER LAWS AND REGULATIONS

Section 285.8 of this title requires the Assistant Administrator for Fisheries to undertake a continued review of the State laws and regulations to which the Act and these regulations apply. The Assistant Administrator for Fisheries has engaged in such a review and has determined that no amendment of § 285.8 is warranted at this time. Copies of these regulations will be sent to each state effected for comment. Any state may request a formal hearing concerning the extension of these regulations over their territorial sea, as provided for in section 9(d)(2) of the Act. No such request has been received by the Department of Commerce since these regulations were first promulgated on February 26, 1976. Therefore, the regulations shall continue to apply within the territorial sea of all effected States.

LIMITED ENTRY IN PURSE SEINE FISHERY

At the recent meeting of ICCAT, the United States announced that it was considering a limited entry system for the bluefin tuna purse seine fishery. These proposed regulations do not include any modification to allow for a limited entry scheme other than the reduced catch restrictions which were already included in the present regula-

tions. NOAA is considering limiting the number of vessels in the fishery for the 1979 season.

— Signed this 9th day of March, 1978.

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

Accordingly, § 285.1 and Subpart B of 50 CFR part 285, as amended, are revised as follows.

§ 285.1 Definitions.

In addition to the meaning ascribed by the Act, if any, the following terms shall mean:

"The Act" means Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971a-971h.

"Albacore" means the species of fish scientifically known as *Thunnus alalunga*.

"Angling" means the taking or the attempted taking of fish with a hand held rod and reel designed and manufactured for the purpose of sport.

"Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

"Atlantic bluefin tuna" means the species of fish scientifically known as *Thunnus thynnus thynnus*.

"Atlantic bonito" means the species of fish scientifically known as *Sarda chiliensis*.

"Cargo vessel" means any fishing vessels used for transporting fish or fish products.

"Closed season" means the time during which a regulated species may not be taken within the regulatory area, except in limited quantities as an incident to fishing for another species with which the regulated species may be mingled.

"Commercial activity" means all activities, other than fishing, of industry and trade, including but not limited to, the buying and selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established pursuant to Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, 20 U.S.T. 2887, including any amendments or protocols which are or become effective for the United States.

"Council" means the Council established within the International Commission for the Conservation of the Atlantic Tunas pursuant to Article V of the Convention.

"Dealer" means any person (as hereinafter defined) who engages in a commercial activity with respect to a regulated species or parts thereof.

"Dressed weight" means the weight of a fish after it has been gilled, gutted, beheaded, and finned.

"Fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for, any species of fish covered by the Convention, or any activities in support thereof.

"Fishing vessel" includes all watercraft, except purse seine skiffs, which are used, used in support of, or outfitted for, catching, taking, processing or transporting fish.

"Fishing voyage" means the period between the date a fishing vessel departs from any port to carry out fishing operations and the date such vessel unloads any of its catch or the date such vessel returns to any port for the express purpose of receiving an inspection by a designated agent of the National Marine Fisheries Service.

"Giant tuna" means any Atlantic bluefin tuna that weighs more than 300 pounds (134.4kg.) round weight.

"Medium tuna" means any Atlantic bluefin tuna that weighs more than 115 pounds (53.3kg.) but less than 300 pounds (136.4kg.) round weight.

"Metric ton" means 2205 pounds (1000 kg.).

"Open season" means the time during which a regulated species may be lawfully taken within the regulatory area in accordance with established quotas or other limitations.

"Person" includes any individual, partnership, corporation, or association subject to the jurisdiction of the United States. "Purse seining" means the taking or the attempted taking of fish by means of an encircling net and associated gear used in commercial fishing operations.

"Quota" means the amount of fish measured either by number or weight that may be retained.

"Regional Director" means: (a) For purposes of Atlantic bluefin tuna—the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930; (b) for purposes of yellowfin tuna—the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas except the waters over which the States have jurisdiction unless the Director has determined otherwise in accordance with 285.8.

"Round weight" means the weight of a fish prior to gilling, gutting, and beheading.

"Secretary" includes the Secretary of Commerce or a designee.

"School tuna" means any Atlantic bluefin tuna that weighs less than 115 pounds (53.3 kg.) round weight.

"Short ton" means 2,000 lbs. (907 kg.).

"State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, and territories and possessions of the United States.

"Tuna" means Atlantic bluefin, yellowfin, skipjack, albacore, or Atlantic bonito.

"Yellowfin tuna" means the species of fish scientifically known as *Thunnus albacares*.

Subpart B—Atlantic Bluefin Tuna ("Thunnus thynnus thynnus")

Sec.

285.10 Effective period of regulations.

285.11 Authorized fishing.

285.12 Open and closed seasons.

285.13 Quotas.

285.14 Incidental catch.

285.15 Gear restrictions.

285.16 Purse seine vessel inspection.

285.17 General restrictions.

285.18 Reporting requirements.

285.19 Presumptions.

285.20 Certification.

285.21 Tag and release permits.

AUTHORITY: Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971a-971h.

Subpart B—Atlantic Bluefin Tuna ("Thunnus thynnus thynnus")

§ 285.10 Effective period of regulations.

These regulations shall remain in force until superseded, amended, or otherwise suspended.

§ 285.11 Authorized fishing.

Fishing for Atlantic bluefin tuna that weigh between 14 pounds and 115 pounds round weight or giant tuna, by persons or fishing vessels subject to the jurisdiction of the United States, is authorized in the regulatory area only during open seasons. Fishing for Atlantic bluefin tuna that weigh less than 14 pounds round weight or medium tuna, by persons or fishing vessels subject to the jurisdiction of the United States is not authorized at any time in the regulatory area except, as provided for in § 285.13 of this subpart B. However, Atlantic bluefin tuna that weigh less than 14 pounds or medium tuna, may be taken incidentally in the course of fishing in the regulatory area by persons or fishing vessels subject to the jurisdiction of the United States in the manner and numbers or weights, set forth in § 285.14.

§ 285.12 Open and closed seasons.

(a) The seasons for taking Atlantic bluefin tuna shall be closed when the Regional Director announces such closing through direct or indirect communication with participants in the fishery or by announcement in the FEDERAL REGISTER.

(b) The season for taking giant tuna by purse seining shall begin on September 10 of each calendar year.

(c) The season for taking Atlantic bluefin tuna by other than as specified in sections (a) and (b) of this section shall commence on January 1 of each calendar year.

§ 285.13 Quotas.

(a) Purse seining: (1) The total annual seine quota for Atlantic bluefin tuna that weigh between 14 pounds round weight and 115 pounds round weight is 1,000 short tons. Of this total annual quota of 1,000 short tons, 800 short tons may be taken during the open season and 200 short tons are reserved to be taken at any time during the year incidental to the conduct of a scientific bluefin tuna tagging project. Such tagging efforts shall be conducted under the direct supervision of the Center Director, Southeast Fisheries Center (SEFC), National Marine Fisheries Service (NMFS), Miami, Fla., or his representative and shall involve no more than four (4) purse seine vessels and associated crews to be selected by the Center Director or his representative.

(2) A special scientific quota not to exceed 25 short tons of Atlantic bluefin tuna is established for the purposes of obtaining age, sex, and other scientific research data, and for tagging. Such research activity shall be conducted under the direct supervision of the Center Director, Southeast Fisheries Center (SEFC), National Marine Fisheries Service (NMFS), or a representative.

(3) The total annual seine quota for giant tuna is 180 short tons.

(b) Fishing by other than purse seining:

(1) The total annual quota of giant tuna is 2,500 tuna. Each vessel fishing for Atlantic bluefin tuna with gear other than a purse seine may land no more than seven (7) giant tuna each week through June 24, of each calendar year, Sunday through Saturday. From June 25 through September 9 no more than one giant tuna may be landed each day by each vessel. From September 10, until the quota has been reached, no more than seven (7) such tuna may be landed each week, Sunday through Saturday.

(i) Of this total annual quota of giant tuna, no more than 2,100 giant tuna may be taken north and east of a line drawn from a point on the southern coast of Massachusetts extending due south through Gay Head Light, Massachusetts, into the Atlantic Ocean and no more than 150 tuna may be taken from waters west of said line, including the waters of Narragansett Bay.

(ii) Of the 2,100 Atlantic bluefin tuna allocation, 100 such tuna may be reserved for a scientific research program. Such research shall be conducted in close cooperation with the Center Director, SEFC, but under the direct supervision of the Northeast Regional Director, National Marine Fisheries Service, Gloucester, Mass., or a representative and shall take place at his discretion.

(2) In lieu of an annual quota, a daily bag limit of four (4) Atlantic

bluefin tuna per person is authorized for persons who fish for Atlantic bluefin tuna which weigh between 14 pounds round weight and 115 pounds round weight.

(c) When the quota for a particular class of Atlantic bluefin tuna has been reached, the Regional Director shall, in accordance with § 285.12 close the season for Atlantic bluefin tuna of that class, provided, however, that anglers may continue a tag and release program pursuant to § 285.21.

(d) The Regional Director upon review of the Atlantic bluefin tuna catch may reallocate catch quotas by publication of a notice in the FEDERAL REGISTER.

§ 285.14 Incidental catch.

(a) Purse seine vessels fishing for giant tuna may take incidentally, during any trip, Atlantic bluefin tuna weighing less than 300 pounds round weight provided that the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of Atlantic bluefin tuna onboard the vessel. Purse seine vessels fishing for Atlantic bluefin tuna weighing more than 14 pounds round weight but less than 115 pounds round weight may take incidentally, during any trip, Atlantic bluefin tuna outside said weight class, provided that the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of Atlantic bluefin tuna onboard vessel.

(b) Recreational vessels: persons angling for Atlantic bluefin tuna, which weight between 14 pounds round weight and 115 pounds round weight, may include in their daily bag limit one Atlantic bluefin tuna less than 14 pounds round weight and one medium tuna, but provided, however, that in no case may the daily bag limit of 4 Atlantic bluefin tuna, as specified in § 285.13(b)(2), be exceeded.

(c) Herring, mackerel, and menhaden purse seine vessels and vessels using fixed gear (pounds, traps, weirs, gill-nets and longlines): Persons or fishing vessels subject to the jurisdiction of the United States fishing principally for species of fish other than Atlantic bluefin tuna, except operators of traps, may take, during any trip, Atlantic bluefin tuna, provided that the amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish onboard the vessel and provided further, that such vessels have been issued an Atlantic bluefin tuna certificate pursuant to this subpart. Operators of traps may retain Atlantic bluefin tuna taken incidentally in these operations, provided that said tuna do not exceed 2 percent, by weight, of the total amount of all other fish species taken with in the preceding 30-day period.

(d) All Atlantic bluefin tuna taken incidentally shall be included in the

appropriate quotas set forth in § 285.13.

§ 285.15 Gear restrictions.

It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to engage in a directed fishery for Atlantic bluefin tuna, under § 285.13(a), with nets, other than a trap net, if such net has a mesh size larger than 4.5 inches in the main body and 8 inches in the selvage (stretched when wet), or has less than 24 count thread anywhere in the net. Such net not exceed 2,700 feet overall length.

§ 285.16 Purse seine vessel inspection.

It shall be unlawful for any owner of any purse seine vessel that has been issued an Atlantic bluefin tuna vessel certificate, under § 285.20, to begin fishing with such vessel and fishing gear for Atlantic bluefin tuna without first having the vessel and fishing gear inspected by an agent of the National Marine Fisheries Service. Arrangements for an inspection shall be made by calling 617-281-3600, ext. 252.

§ 285.17 General restrictions.

(a) It shall be unlawful for any person, master or operator of any fishing vessel subject to the jurisdiction of the United States to land any Atlantic bluefin tuna in other than the whole round form, or eviscerated and the head removed (dressed).

(b) It shall be unlawful for any person to submit an application for a vessel certification, under § 285.20, unless the vessel travels to and from the fishing grounds under its own power and brings aboard or lands Atlantic bluefin tuna with no assistance from other vessels, except in case of severe weather where the safety of the vessel or crew is jeopardized, or due to circumstances beyond the control of the master of the vessel.

(c) It shall be unlawful for any person, master, or operator of any vessel subject to the jurisdiction of the U.S. to fail to release immediately, with a minimum of injury, any Atlantic bluefin tuna which will not be retained.

(d) It shall be unlawful for any person, master or operator of any fishing vessel subject to the jurisdiction of the United States that takes a giant tuna to transfer the fish from the vessel from which it was taken without having first affixed to the fish between the fifth dorsal finlet and the keel (See Figure 1), an individually

numbered metal tag furnished by the National Marine Fisheries Service.

(e) It shall be unlawful for any person to remove the metal tag affixed to the tuna in paragraph (d) until the fish is either cut into portions or sold for export from the United States. Such tag may be removed from tuna packed whole or headed and eviscerated for export, but, in such cases, the tag must be attached to the container holding the fish until it is shipped from the United States.

(f) It shall be unlawful for any person to knowingly purchase, or have in possession, any Atlantic bluefin tuna taken in violation of this Subpart.

§ 285.18 Reporting requirements.

(a) Reports and records required by this section should be sent to: Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930. All tags, forms, and logbooks referred to in this § 285.18 may be obtained by writing to the same address.

(b) It shall be unlawful for any dealer to fail to maintain and forward on a weekly basis, on forms available from the National Marine Fisheries Service, a complete record of their commercial activity involving all Atlantic bluefin tuna handled during the reporting period. Such record shall include numbers of fish, disposition (names, addresses and, where applicable, country of destination), source (names, addresses and, where applicable, country of origin), metal tag numbers (where applicable), round or dressed weight (by individual fish for giant tuna), and any other information requested by the Regional Director.

(c) It shall be unlawful for an owner or master of any vessel certified under § 285.20 and fishing for giant tuna to fail to maintain an accurate record of operations in a logbook provided by the National Marine Fisheries Service. One of the logsheets is to be returned to the Regional Director at the end of each month during the season. Such record shall show, for each week that the vessel was engaged in fishing for giant tunas the date, number, round or dressed weight and fork length of the giant tuna landed, type of gear used, area fished, metal tag numbers used, and the amount of time fished. In the case of purse seine vessels, the record shall show the information for each set made rather than for each month.

(d) It shall be unlawful for an owner or master of any vessel certified under § 285.20, and taking Atlantic bluefin tuna under the provisions of § 285.13(b)(1), to fail to report each

taking within 48 hours by completing and returning one of the cards provided for this purpose in the logbook. Each report shall show the Atlantic bluefin tuna vessel certificate number, metal tag number affixed to the fish under § 285.17(d), the date landed, the port where landed, the round or dressed weight, fork length, gear used and area where caught. Vessels participating in special National Marine Fisheries Service statistical programs may be exempt from the logging requirements of this section. Requests for exemption should be made to the Regional Director.

(e) It shall be unlawful for the owner or master of any purse seine vessel certified under § 285.20 of this subpart, to fail to maintain an accurate record of operations in a logbook provided by the National Marine Fisheries Service. Such record shall show, for each day that the vessel was engaged in fishing for Atlantic bluefin tuna weighing between 14 pounds and 115 pounds round weight, the date, number of sets, location, and approximate weight of fish landed. For giant tuna individual weight and metal tag numbers also must be recorded.

(f) It shall be unlawful for any person, master or owner of any purse seine vessel certified under § 285.20 to off-load any Atlantic bluefin tuna taken pursuant to this subpart without first arranging to have the vessel inspected by an agent of the NMFS. Arrangements for such inspection shall be made at least 24 hours prior to off-loading, by calling 617-281-3600, extension 252.

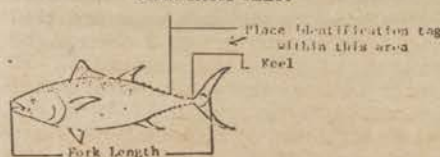
(g) It shall be unlawful for the owner or the designated representative of any purse seine vessel certificate under § 285.20 of this subpart to fail to notify the National Marine Fisheries Service of its catch of tuna by 8 p.m. every day while engaged in fishing for Atlantic bluefin tuna. The owner or designated representative must also report a day of fishing activity that does not result in the catch of tuna. Such reports shall be made by telephoning 617-992-7711. The call will be recorded automatically. The report shall include the name of the person calling, the name of the vessel, the Atlantic bluefin tuna vessel certificate number, and the estimated catch of tuna by weight on board the vessel at the time the call is made.

§ 285.19 Presumptions.

For purposes of this part, there shall be a rebuttable presumption that Atlantic bluefin tuna which are of the following lengths, when measured in a straight line from the tip of the nose to the fork of the tail (fork length), weigh the amount noted in association with the length: 27 inches (68 cm)—14 pounds (6.4 kg); 56 inches (142 cm)—115 pounds (53.3 kg); 75 inches (191

FIGURE 1

Fifth dorsal finlet



cm)—300 pounds (136.4 kg), or the proportional length of the body with the head removed. For any Atlantic bluefin tuna which is less than or in excess of the length set forth herein, there shall be a rebuttable presumption that such Atlantic bluefin tuna correspondingly weigh less than or in excess of, as the case may be, the appropriate associated weights.

§ 285.20 Certification.

(a) The owner of any vessel which fishes for giant tuna within the regulatory area must obtain a certificate.

(b) The owner of any vessel which fishes with a purse seine for Atlantic bluefin tuna weighing between 14 and 115 pounds round weight within the regulatory area must obtain a certificate.

(c) To be eligible for a certificate, a fishing vessel must be properly documented under the laws of the United States, or registered under State law.

(d) Certificates may be obtained on submission of an application form, obtainable from the National Marine Fisheries Service, specifying the name(s) and address(es) of the vessel owner(s), the name of the vessel, official number(s), type of fishing gear to be used, capacity (if commercial), and home port of the vessel. The form

shall be submitted to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, who shall issue the required certificate without fee. The certificate will remain in effect until the vessel is destroyed, sold, or transferred to another owner, returned, or revoked pursuant to paragraph (e) of this section, provided however, that owners of purse seine vessels, certified under this section, must comply with the provisions of § 285.16 each year.

(e) It shall be unlawful to fail to carry such certificate at all times on board the vessel for which it was issued. The certificate shall be subject to inspection at reasonable times by authorized officials.

(f) Certificates issued under this section may be revoked by the Regional Director for violations of the provisions of this subpart B. Revocation will be in accordance with the hearing procedures referenced in § 285.6.

(g) It shall be unlawful for any vessel, required to have a certificate pursuant to paragraphs (a) and (b) of this section to fish for Atlantic bluefin tuna without a valid certificate.

§ 285.21 Tag and release permits.

(a) It shall be unlawful for any angler to catch and release a giant

tuna without first tagging such tuna with plastic tags supplied by the NMFS.

Such catching, tagging, and releasing must be conducted from a vessel which has applied for, and been issued, a tag and release permit pursuant to paragraph (b) of this section.

(b) Owners of vessels certified under § 285.20 who also desire to obtain a tag and release permit for their vessel should submit their application in writing to the Center Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Fla., 33149, who will issue the permit along with appropriate tags and detailed instructions for the tagging procedure. Such application must include the name of the vessel, official Coast Guard and/or State number(s), names of the owner and master, fishing certificate number, and the general area(s) in which the tag and release activity will be carried out.

(c) It shall be unlawful for any person to tag and release Atlantic bluefin tuna without having obtained a tag and release permit pursuant to this section, and a certificate pursuant to § 285.20.

[FR Doc. 78-6590 Filed 3-13-78; 8:45 am]

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EST. NO.	NAME OF ESTABLISHMENT	C	A	T	T	L	V	E	S	E	Q	U	I	N	E
24T	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2C	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2CC	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2H	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
25A	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
250	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2M	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2M	ARMOUR & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3AE	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3BM	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3C	SMITH FRESH MEATS CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3CN	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3G	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3G	SMITH FRESH MEATS CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3G1	SMITH FRESH MEATS CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3GN	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3L	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3L	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3R	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3Y	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
3Z	SMITH & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
8	LYNES BROS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
10	PAULY PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
11	FRENCH CITY MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
12A	HYGRADE FOOD PRODUCTS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
12M	HYGRADE FOOD PRODUCTS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
12P	HYGRADE FOOD PRODUCTS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
17A	JOHN MORRELL AND CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
17B	JOHN MORRELL & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
17E	JOHN MORRELL & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
17U	JOHN MORRELL & CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
18	C. FINKELBERG INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
20H	WILSON FOODS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
20I	WILSON FOODS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
20J	WILSON FOODS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
20M	WILSON FOODS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
20N	WILSON FOODS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
20V	WILSON FOODS CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
28	PATRICK CUDAHY INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
28	KREINBERG AND KRAVNY INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
30	SUPERIOR BRAND MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
31	THE ROEGELEIN CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
32	THE ROEGELEIN CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
32A	VALLEYVALE PACKERS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
34	VALLEYVALE PACKERS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
36	KENTON PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
37	TOP-LINE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
43	SUNNYLAND FOODS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
43B	BROOKS COUNTY PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
46	IDAHU MEAT PACKERS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
53	DUGDALE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
56	SUNNYLAND PACKING CO. OF ALABAMA	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
56A	SUNNYLAND PACKING CO. OF ALABAMA	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
60A	GLOVER PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
61	GODCH PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
62	SANFLOMER BEEF PACKERS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
63	SANFLOMER BEEF PACKERS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
68	BALC MEAT PROCESSING PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
71	ALBURN UNIVERSITY MEAT LABORATORY	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
72	COUNTRY MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
73	BROWN THOMPSON & SON	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
76	GLASGOW PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
79A	DINNER BELL FOODS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
79B	DINNER BELL FOODS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
79C	DINNER BELL FOODS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
81	CUDAHY CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

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ESTABLISHMENTS SLAUGHTERING HUMANELY										PAGE 7 OF 26 PAGE(S)									
ESTABLISHMENTS SLAUGHTERING HUMANELY										PAGE 8 OF 26 PAGE(S)									
NAME OF ESTABLISHMENT	EST. NO.	C	A	L	T	V	E	P	S	NAME OF ESTABLISHMENT	EST. NO.	C	A	L	T	V	E	P	S
NEVADA MEAT PACKING INC.	925	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	GREELEY MEAT CO.	2212	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
SCHMALTZ MEATS	926	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	HANDY PACKING CO. INC.	2215	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
TARPUFF PACKING CO.	931	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	YAKUM PACKING CO. LTD.	2216	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
PARKS BEEF CO. INC.	932	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	CLARA PACKING CO.	2219	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
EBB PACKING CO. INC.	934	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	BURLISON PACKING CO.	2224	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
VOLLE PACKING CO. INC.	938	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	PAGE PACKING CO.	2228	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
GERNER PACKING CO. INC.	941	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	RIOLEY PACKING CO.	2229	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
WHITFIELD PACKING CO.	946	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	SOUTH TEXAS PACKERS INC.	2230	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MILLMAN FOOD INDUSTRIES INC.	948	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	LAWRENCE MEAT PACKERS	2232	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
R. BRILLO 8 CO.	949	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	GEORGE DRUM PACKING CO. INC.	2239	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
KENNEDY'S SALAD CO.	950	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	RYAN SAUSAGE CO. INC.	2249	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
BOB EVANS FARM MICHIGAN INC.	952	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	LOVELAND PACKING CO. INC.	2259	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
GREATER OHIO PACKING CO.	960	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	G. S. C. PACKING CO.	2262	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
POTTER SAUSAGE PRODUCTS INC.	961	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	RIOLEY PACKING CO.	2265	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
VIRGINIA PACKING CO. INC.	963	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	L. A. FREY & SONS INC.	2266A	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
T. L. LIT. PACKING CO.	967	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	WRIGHT PACKING CO.	2269	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MONFORT PACKING CO.	969	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	CENTRO MEAT COMMISSARY	2271	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
HAMMILL MEAT CO. LTD.	970	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	LAHESA MEAT CO.	2272	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
LONGHORN MEAT PACKERS INC.	976	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	AMARILLO PACKING CO.	2273	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
BANNER BEEF CO.	987	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	HUSBAND BROTHERS PACKING CO.	2284	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
J. F. O'NEILL PACKING CO.	989	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	BEN GRANTHAM MEAT PACKERS	2290	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
KLARER OF KENTUCKY INC.	1029	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	DANKWORTH PACKING CO. INC.	2296	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
THE HONE PRIDE PROVISIONS INC.	1085	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	BARBER ENTERPRISES INC.	2315	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
ARMOUR & CO.	1171	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	FRUITLAND PACKING CO. INC.	2316	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
PORKLAND DIV OF CONSOLIDATED FOODS CORP.	1172	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	HEIGHTS MEAT CENTER INC.	2319	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
A. F. MOYER & SONS	1311	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	GRANBURY BUTCHER BLOCK INC.	2329	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MCABE PACKING PLANT	1312	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	MINCUE MEAT CO.	2330	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
BEEF NEBRASKA INC.	1318	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	CONNETT PACKING CO.	2333	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
SEVIER VALLEY MEATS INC.	1420	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	MORRIS PACKING CO.	2339	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
LA BRIER MEAT PROCESSING CO.	1472	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	FELTING SPIN MEAT CO.	2344	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
ASSOCIATED MEAT PACKERS INC.	1473	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	LARON MEAT SERVICE	2356	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
STEVENS MEAT CO. INC.	1582	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	ARANA SOCIETY	2357	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
OSUMMA LOCKERS INC.	1587	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	W. J. RAMEY & SONS INC.	2358	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
OHAMA PACKERS INC.	1597	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	THOMAS MEAT CO. INC.	2367	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
HENDERSON MEAT PROCELSURS	1629	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	GROTE MEAT CO.	2370	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
FERGUS FOOD INDUSTRIES INC.	1629	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	CANADIAN VALLEY MEAT CO.	2372	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MORRINGTON PACKING CO. INC.	1643	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	CLAYTON PACKING CO.	2373	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MULLEN PACKING CO.	1647	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	SMIT & SON INC.	2376	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
CABLE LINE MEATS INC.	1689	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	SPENCER FOODS INC.	2379	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
ABBYLAND PROCESSING INC.	1693	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	BASIN PACK INC.	2382	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
K&H & CO. INC.	1694	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	MARTIN SAUSAGE CO.	2385	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
DOUBBLE J MEAT CO.	1699	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	MARSHALL PACKING CO. INC.	2386	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
DAVIS PROVISIONS & LOCKER	1676	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	CLINTON PACKING CO.	2387	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
HOUSE OF MEATS	1685	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	MOIT PACKING CO.	2394	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
A. L. & H. MEATS INC.	1713	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	UNITED MEAT CO. INC.	2396	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
JAMES SAUSAGE CO.	1718	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	P. H. EXPRESS RANCH	2398	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
DE KALB COUNTRY PACKING INC.	1737	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	P. H. CUSTOM MEATS INC.	2401	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
ROBERT L. RUNTZ INC.	1750	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	NACKER PACKING CO. INC.	2403	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
LITTLE RIVER PACKING	1771	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	HILLSHIRE FARM CO.	2425	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
CHEVLO INTERNATIONAL INC.	1772	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	RANCHLAND PACK INC.	2439	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
RUCK DELL MEATS & PROCESSING	1796	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	STRAUSS BROTHERS PACKING CO. INC.	2445	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MINNEN BELF CO.	1894	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	JOHN R. DAILY INC.	2450	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
PACKERLAND PACKING CO.	2032	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	CIMPL PACKING CO.	2450	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
CRUICKETT PACKING CO.	2033	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	PIPESTONE AREA VOCATIONAL TECHNICAL INSTITUTE	2460	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MR. BEEF PACKING	2049	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	LINK BROS. INC.	2462	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
ABBEY PACKING CO.	2061	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	KENNING PACKING CO. INC.	2472	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MIDWAY MEATS DIV COUNTRY PRIDE INC.	2080	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	NEW GLARUS FOODS INC.	2533	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
BRAUNFELS MEATS INC.	2081	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	MEYHAUPT BROS. PACKING CO.	2585	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
UCON SAUSAGE CO. OF KENTUCKY INC.	2094	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	BARTON BROS. INC.	2594	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
ALEWEL INC.	2101	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	THE TEEBLES PACKING LG.	2598	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
GOODMARK FOODS INC.	2103	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	DUGGIN PACKING CO.	2599	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
MONEY BEEF HOUSE	2108	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	MC DONALD MEATS	2603	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
BALLARUS FARM SAUSAGE INC.	2211	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	FOUCH PACKING CO.	2604	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
P. & H. PACKING CO. INC.	2211	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	BUNDY BROTHERS MEATS PROCESSING	2611	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
										J. W. TREUTH & SUN INC.	2612	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
										MANASSAS FROZEN FOODS	2621	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
										MANASSAS FROZEN FOODS ABATTOIR	2621A	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
										LOUMIS PACKING CO.	2636	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

ESTABLISHMENTS SLAUGHTERING HUMANELY		PAGE 10 OF 26 PAGE(S)												
EST. NO.	NAME OF ESTABLISHMENT	C	A	T	V	E	P	S	E	Q	U	I	N	E
4049	FARLAND MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4055	LEE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4065	THE EVERETT FOUNDATION FARM	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4073	BURMAN'S MEAT PROCESSING INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4095	JOHN A. BJOR	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4133	MIDVALE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4152	TALONE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4165	UPLAND PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4202	GREEN'S QUALITY MEAT SERVICE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4206	TINNY'S MEAT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4213	VALLEY MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4216	HARDEN OF IOWA INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4220	SPRINGFIELD QUALITY BEEF INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4244	PULVERMACHER INC. MEAT PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4246	WEBSTER CITY CUSTOM MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4253	JOE PAGLIUSO & SONS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4254	SCHREIBER-JUN'S MARKET INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4263	POUR'S WHOLESALE MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4266	STATE UNIV. OF NEW YORK AGRIC. & TECH. COLLEGE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4285	JIM SINGH'S MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4330	DEL SONNO'S CUSTOM MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4342	ALPHONSO CUDHO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4346	S & J SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4353	F. K. & SON INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4354	KLINCK BRUS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4355	DONALD H. CLOY	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4358	BERNACKI BROS.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4371	SMITH PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4372	CARLSON BROTHERS MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4373	J. M. DOSTINICK AND SONS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4374	ROBERT & RONALD VAN CAMP	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4388	SIPPERLY BROS. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4389	NESSLE BROTHERS MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4416	WALKILL CORRECTIONAL FACILITY	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4418	KARL'S SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4419	FIURENTINI BROS. MEAT PROCESSORS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4421	L. G. MEATS CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4422	LEWIS A. IVES	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4423	LOFTIS MARKET	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4424	HERBERT M. ZIFF INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4426	SHAPPEE'S MEAT PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4429	P. BRENNAN INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4431	WILLIAM G. MEAT PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4463	GREEN HAVEN CORRECTIONAL FACILITY	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4464	FRANK BROTHERS FARM INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4468	MONER CUSTOM SLAUGHTERING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4470	KANERY'S WHOLESALE MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4471	FREDERICK BOND	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4473	PACKER'S WHOLESALE MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4474	GREENVILLE PACKING CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4475	LUTZ PACKERS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4476	BRICETTI'S BEUFORD MARKET	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4477	JOSEF MEILLER'S SLAUGHTERHOUSE INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4480	CRUGHAN MEAT MARKET INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4482	F. J. LEWIS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4483	HOKAN'S SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4486	STEINER PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4488	VICTORIA POLYNIAK	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4489	STEIGER'S SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4490	ORLEANS MEAT PROCESSING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4491	PAT ROBLSTON INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4492	DILLON'S SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4493	E. D. BEADLES SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4517	MILLER'S MEAT MARKET	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4526	RUTTERMAN PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4528	CWILLIN'S MARKET	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4529	CLIFFORD M. SCHRAVER	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
4530	JOHN BRITT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

ESTABLISHMENTS SLAUGHTERING HUMANELY		PAGE 9 OF 26 PAGE(S)									
EST. NO.	NAME OF ESTABLISHMENT	C	A	T	L	V	E	P	S	E	
2642	CURTIS PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2682	H. P. BEALE & SONS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2688	FARMBOY MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2699	YODERS LOCKER PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2712	VERMONT PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2739	V. K. MITMAN MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2751	E. G. COUNTRY BUTCHERS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2770	MAGNER PROVISIONS CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2777	B. & H. WHOLESALE MEAT CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2791	DOUGLAS J. DODGEO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2794	GEORGE BROWN	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2800	STORVEN BROTHERS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2814	TOBLER'S MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2825	BLUE MOUNTAIN MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2827	LEWIS & MCNEIL	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2850	BASIN PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2854	VISTA MEAT PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2856	GRANITE MEAT & LIVESTOCK CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2856	AMBRUST MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2912	MADISON FOOD INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2923	MARYVILLE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2927	PETTIS COUNTRY LOCKER SYSTEM	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2929	RUNYON FROZEN FOOD SERVICE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2932	STAR PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2934	WINTER'S MEAT PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2938	MOORE LOCKER & ABATTOIR	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2939	YONK PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2944	WEST PLAINS PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2945	P. C. H. MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2946	PERTSCUT PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2948	DAVIS SLAUGHTER PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2950	CROUCH'S LOCKER & PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2951	MAVER'S MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2956	MAXWELL'S LOCKER	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2959	MELINGTON QUALITY MEATS INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2960	MACDOYE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2963	MATTIAS SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2964	BOLTEAR LOCKER PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2965	FRANCIS PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2969	SWISS PROCESSING PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2970	SLADE MEAT MARKET INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2972	SURPH SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2975	SINGER LOCKER SERVICE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2977	DELAUNEY & SONS MEAT PACKING INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2978	KINERTY'S MEAT PROCESSING INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2982	MIRABILE MEAT PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2983	LUTON LOCKER & PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2984	DAVIS MEAT PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2985	DIGGS PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2986A	DIARR MEAT CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2987	HIGHLANDVILLE PACKING CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2989	GLEN'S CUSTOM BUTCHERING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2990	PERRY SLAUGHTER	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2991	HERROD PACKING CO. INC.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2993	HOLDEN LOCKER PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2994	DIARR MEAT CO.	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2995	COUNTRY BUTCHER SHOP	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2995A	COUNTRY BUTCHER SHOP	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2995B	COUNTRY BUTCHER SHOP	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
2998	MISSOURI STATE PENITENTIARY FOR MEN	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
4014	GENMAN'S QUALITY MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
4022	DIETRICH'S COUNTRY MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
4025	HOFFER'S LIGNIER VALLEY PACKING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
4034	HOT ACRES FARMS QUALITY MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
4040	WAYNE H. HOFFMAN & SONS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
4043	CLARENCE W. GRAMER	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	
4045	STANICKI PROVISION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	

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EST. NO.	NAME OF ESTABLISHMENT	C	A	A	T	L	V	E	S	C	S	G	S	E	E
6618	PARKS PARRIS CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6621	DEAN SALVAGE CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6628	MORRISSEY MEATS & PROVISIONS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6635	BOONEVILLE PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6636	PETE'S MARKET	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6639	TUCKER'S SALVAGE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6643	SPRING CREEK INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6644	GOODMAN'S SLAUGHTER HOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6646	BRASLETON PACKING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6652	SAN JUAN MUNICIPAL SLAUGHTER HOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6675	MACELO DE HUMACAO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6676	ASOCIACION SUPLENTORES DE CARNES DEL OESTE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6677	YAUCO MUNICIPAL GOVERNMENT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6678	MANATI SLAUGHTER HOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6679	MUNICIPAL SLAUGHTER HOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6680	MUNICIPALITY OF VIGUEN	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6681	MUNICIPALITY OF ARICIEL	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6682	AGRUPECUARIA DEL SUR INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6684	NAGUABO REGIONAL ABATTOIR	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6686	SAN SEBASTIAN ABATTOIR	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6687	MACELO MUNICIPAL DE PENCE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6689	MACELO DE CEROZAL	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6690	LARES SLAUGHTERHOUSE	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6696	PELL CITY MEAT PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6728	PROVIMI DE PUERTO RICO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6729	M & J SLAUGHTER HOUSE INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6750	STAR MEAT CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6760	MALTER PACKING INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6766	STANDARD BEEF INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6770	CALHAN & CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6775	HELM'S MEATS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6777	THE ROSE ABATTOIR	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6780	BOB EVANS FARMS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6785	BERGMAN MEAT PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6788	ILLINI BEEF PACKERS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6792	BOB EVANS FARMS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6807	UTICA PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6832	COLUMBIA PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6853	MARBURGER PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6863	LILY PACKING INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6866	HITCH PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6887	MILLER PROCESSING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6889	COUNTRY PRIDE INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6893	ROCKVILLE PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6901	EGGERTS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6917	MEATCORP	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6920	TRI STATE FOODS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6957	THE CUYAHOGA MEAT CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6963	ABE MAY PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6965	SELECTED MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6979	FARLAND FOOD SERVICES INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6980	WILLIAM P. FRUEHLICA	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6982	JUDSON PACK INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6989	PURDUE UNIVERSITY MEAT SCIENCE LABORATORY	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
6992	SCHWARTZMAN PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7003	ORSHING PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7006	ROCA INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7007	CATTLEMAN'S MEAT PROCESSING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7009	SMITH PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7012	WIMBY DEAN MEAT CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7015	MUSKOGEE PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7023	SIXTY-SIX PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7025	SIXTY-SIX PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7028	WESTERN MEAT PACKERS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7040	ACTING PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7041	BELTEX CORPORATION	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7046	CROWN MEAT CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7052	MARTIN'S MEAT PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7054	ROCKING V BEEF INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7055	BROWN'S MEAT LOCKER	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7055A	BROWN'S MEAT LOCKER	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7056	DUNDOO BUNCELESS BEEF CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7060	TEAPAK INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7064	BROWN PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7065	RYAN PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7074	P. S. PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7075	TANKERSLEY BROS. PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7075A	COMMUNITY ABATTOIR INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7086	HUGHSON MEAT CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7088	CLENNIN MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7090	RANCHERS MARKETS INC ATHENS PROCESSING PLANT	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7094	TURKEY INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7097	E-TEX PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7122	ROSEVILLE PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7127	FELICIANA MEAT SUPPLY	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7128	WINDHURST FINE MEATS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7130	COLORADO PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7133	VALLEY MEAT SUPPLY & SERVICES	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7139	WICKHAM PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7149	B. B. PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7150	OSBORN PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7151	DON MCDONNELL MEAT PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7159	SOUTHERN MEAT PACKERS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7159	GREER'S INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7162	BUCKER CLISTON PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7172	BAUER & SON PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7189	ALL-STATE PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7201	SHALLOUP PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7203	J. M. FUSHEE DDA SINGLETREE FARMS	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7209	MESA PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7211	CONCHO PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7219	PRIVETT PACKING CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7237	COLUMBIA PACKING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7237	AMERICAN PACKING CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7238	AMARILLO BEEF PROCESSORS INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7254	CHAMPION MEAT CO	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7259	H. & M. PRODUCTS CO INC	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7259	FORREST MEAT PROCESSING	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
7270	HOBBS MEATS SLAUGHTER & PROCESSING	(*)	(*)	(*)	(*)										

FEDERAL REGISTER, VOL. 43, NO. 50—TUESDAY, MARCH 14, 1978

[illegible]

FEDERAL REGISTER, VOL. 43, NO. 50—TUESDAY, MARCH 14, 1978

NOTICES

ESTABLISHMENTS SLAUGHTERING HUMANELY

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NAME OF ESTABLISHMENT	EST. NO.	C A T L E S	C A L V E S	S H E P S	G O A T S	S W I N E	E Q U I N E
FETTEROLF'S MEAT MARKET--	9685	(*)	(*)	(*)	(*)	(*)	(*)
MARK BOWMAN--	9686	(*)	(*)	(*)	(*)	(*)	(*)
LEE BIXLER--	9687	(*)	(*)	(*)	(*)	(*)	(*)
BOYER'S MEATS--	9688	(*)	(*)	(*)	(*)	(*)	(*)
KOLB'S MEAT MARKET--	9689	(*)	(*)	(*)	(*)	(*)	(*)
PLEASANT UNITY PACKING CO INC--	9692	(*)	(*)	(*)	(*)	(*)	(*)
CARL VENEZIA--	9693	(*)	(*)	(*)	(*)	(*)	(*)
PAUL H. SLMNECK--	9695	(*)	(*)	(*)	(*)	(*)	(*)
ROBERT L. BINGMAN--	9696	(*)	(*)	(*)	(*)	(*)	(*)
SMITH'S MEATS--	9697	(*)	(*)	(*)	(*)	(*)	(*)
HOLLAND BRUS MEAT--	9701	(*)	(*)	(*)	(*)	(*)	(*)
ALFERY'S SALSAVE CO INC #2--	9702	(*)	(*)	(*)	(*)	(*)	(*)
SPRINGFIELD MEAT CO--	9704	(*)	(*)	(*)	(*)	(*)	(*)
WILMER DARINGER--	9706	(*)	(*)	(*)	(*)	(*)	(*)
HAGERS MEAT MARKET--	9707	(*)	(*)	(*)	(*)	(*)	(*)
HANSON'S FREEZER MEATS--	9711	(*)	(*)	(*)	(*)	(*)	(*)
COFFARU CLSTOM BUTCHERING--	9712	(*)	(*)	(*)	(*)	(*)	(*)
COLUMBUS PACKING CO--	9713	(*)	(*)	(*)	(*)	(*)	(*)
THOMA'S MEAT MARKET--	9714	(*)	(*)	(*)	(*)	(*)	(*)
DAVE FINE MEAT PACKER INC--	9715	(*)	(*)	(*)	(*)	(*)	(*)
LOUISION PACKING CO INC--	9716	(*)	(*)	(*)	(*)	(*)	(*)
LEE GASHEL & SONS INC--	9717	(*)	(*)	(*)	(*)	(*)	(*)
AMERICAN FUDUS INC--	9718	(*)	(*)	(*)	(*)	(*)	(*)
STEALE & B. PACKING CO--	9719	(*)	(*)	(*)	(*)	(*)	(*)
SMITH'S FROZEN FOOD--	9720	(*)	(*)	(*)	(*)	(*)	(*)
HEINWICKEL FARMS INC--	9725	(*)	(*)	(*)	(*)	(*)	(*)
WALTER'S MEATS--	9726	(*)	(*)	(*)	(*)	(*)	(*)
HILLCREST PACKING CO--	9747	(*)	(*)	(*)	(*)	(*)	(*)
JOSEPH BENZAK JR--	9753	(*)	(*)	(*)	(*)	(*)	(*)
LEMHENEY BUTCHER SHUP INC--	9755	(*)	(*)	(*)	(*)	(*)	(*)
ROYAL SWAN FUDUS INC--	9758	(*)	(*)	(*)	(*)	(*)	(*)
REHRIG'S QUALITY MEATS INC--	9759	(*)	(*)	(*)	(*)	(*)	(*)
FRANK G GILBERT & SON--	9762	(*)	(*)	(*)	(*)	(*)	(*)
HEINTZELMAN'S MEAT MARKET--	9763	(*)	(*)	(*)	(*)	(*)	(*)
DELBERT E HAYOT--	9765	(*)	(*)	(*)	(*)	(*)	(*)
WILLIAM MULITSCH--	9766	(*)	(*)	(*)	(*)	(*)	(*)
JOHN J. ELNITSKI--	9767	(*)	(*)	(*)	(*)	(*)	(*)
WALTER JURCZAK--	9770	(*)	(*)	(*)	(*)	(*)	(*)
ALBERT CARLTH--	9776	(*)	(*)	(*)	(*)	(*)	(*)
HOWARD W. DARLING--	9777	(*)	(*)	(*)	(*)	(*)	(*)
FREDERICK R SCHWEIGHOFER--	9781	(*)	(*)	(*)	(*)	(*)	(*)
LEONA MEATS--	9784	(*)	(*)	(*)	(*)	(*)	(*)
J & B MEAT PLANT--	9785	(*)	(*)	(*)	(*)	(*)	(*)
WILLIAM STEPNIAK--	9786	(*)	(*)	(*)	(*)	(*)	(*)
MUSSEERS INC--	9788	(*)	(*)	(*)	(*)	(*)	(*)
YOUNDT BROS--	9789	(*)	(*)	(*)	(*)	(*)	(*)
C. H. THOMAS SONS INC--	9790	(*)	(*)	(*)	(*)	(*)	(*)
AMOS STOLTZFUS--	9792	(*)	(*)	(*)	(*)	(*)	(*)
LOCUSTDALE PACKING CO--	9799	(*)	(*)	(*)	(*)	(*)	(*)
ALLEN I. RUMBERGER--	9800	(*)	(*)	(*)	(*)	(*)	(*)
PEZZNER BROTHERS INC--	9808	(*)	(*)	(*)	(*)	(*)	(*)
ROBZEN'S INC--	9809	(*)	(*)	(*)	(*)	(*)	(*)
HUGH'S FARMS & MARKETS INC--	9810	(*)	(*)	(*)	(*)	(*)	(*)
TWIN PINE FARM--	9814	(*)	(*)	(*)	(*)	(*)	(*)
WINTER GARDENS ABATTOIR--	9815	(*)	(*)	(*)	(*)	(*)	(*)
J. A. HARGLERUAD & CO--	9816	(*)	(*)	(*)	(*)	(*)	(*)
POTTEIGER MEATS--	9817	(*)	(*)	(*)	(*)	(*)	(*)
THE COLNTRY BUTCHER SHCP--	9819	(*)	(*)	(*)	(*)	(*)	(*)
HERVITZ PACKING CO--	9821	(*)	(*)	(*)	(*)	(*)	(*)
LAUVERMILCH MEATS--	9823	(*)	(*)	(*)	(*)	(*)	(*)
PHARES A LONGNECKER & SONS INC--	9827	(*)	(*)	(*)	(*)	(*)	(*)
CLOVER MEAT PACKING INC--	9828	(*)	(*)	(*)	(*)	(*)	(*)
N. S. TROUTMAN & SONS--	9832	(*)	(*)	(*)	(*)	(*)	(*)
MIKE LEVCHIK--	9834	(*)	(*)	(*)	(*)	(*)	(*)
GLENN J. BEASTON--	9835	(*)	(*)	(*)	(*)	(*)	(*)
NORMAN ZIMMERMAN & SON--	9836	(*)	(*)	(*)	(*)	(*)	(*)
HENRY S. ZIMMERMAN--	9837	(*)	(*)	(*)	(*)	(*)	(*)
GEORGE E. GARNER--	9838	(*)	(*)	(*)	(*)	(*)	(*)

ESTABLISHMENTS SLAUGHTERING HUMANELY

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NAME OF ESTABLISHMENT	EST. NO.	C A T L E	C A T L E	S H E P S	G O A T S	S W I N E	E Q U I N E
GLENN E HENRY--	9841	(*)	(*)	(*)	(*)	(*)	(*)
FRANCIS BONANNO PACKING CO--	9842	(*)	(*)	(*)	(*)	(*)	(*)
HUGHEY (8088Y) WEYANUT III--	9843	(*)	(*)	(*)	(*)	(*)	(*)
PENNSYLVANIA STATE UNIV MEATS LABCRATRY--	9844	(*)	(*)	(*)	(*)	(*)	(*)
CHARLES VOLNOT & SONS--	9846	(*)	(*)	(*)	(*)	(*)	(*)
FENTONS MEATS--	9847	(*)	(*)	(*)	(*)	(*)	(*)
OLIJNYK BROTHERS--	9848	(*)	(*)	(*)	(*)	(*)	(*)
PALACE MARKET INC--	9880	(*)	(*)	(*)	(*)	(*)	(*)
KERN COUNTY SHERIFF--	9891	(*)	(*)	(*)	(*)	(*)	(*)
CALIFORNIA STATE UNIV FRESNO MEAT LABORATORY--	9892	(*)	(*)	(*)	(*)	(*)	(*)
CAVALIER EXPORT CO--	9910	(*)	(*)	(*)	(*)	(*)	(*)
COMMITTEE ON MASONIC HOMES--	9913	(*)	(*)	(*)	(*)	(*)	(*)
DONALD M SEIDLE--	9921	(*)	(*)	(*)	(*)	(*)	(*)
NEWPORT PACKING CO--	9926	(*)	(*)	(*)	(*)	(*)	(*)
WETZGER MEAT--	9927	(*)	(*)	(*)	(*)	(*)	(*)
A WENZEL'S MEAT MARKET--	9941	(*)	(*)	(*)	(*)	(*)	(*)
SCHALLER'S SLAUGHTERHOUSE--	9955	(*)	(*)	(*)	(*)	(*)	(*)
NASER PACKING CO--	9958	(*)	(*)	(*)	(*)	(*)	(*)
ECOMUNITY FARMS INC--	9961	(*)	(*)	(*)	(*)	(*)	(*)
JOHN M BONHAM & SONS--	9971	(*)	(*)	(*)	(*)	(*)	(*)
AMOS BAWELL & SONS--	9974	(*)	(*)	(*)	(*)	(*)	(*)
MINOR ACRES PACKING CO--	9983	(*)	(*)	(*)	(*)	(*)	(*)

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 29198; Order 78-3-5]

ALASKA AIRLINES, INC. ET AL.

Alaska Fares Investigation; Order of Investigation and Suspension

MARCH 1, 1978.

By tariff revisions¹ marked to become effective March 17 or 20, 1978, Alaska Airlines, Inc. (Alaska), Pan American World Airways, Inc. (Pan American), Northwest Airlines, Inc. (Northwest), and Western Airlines, Inc. (Western) propose to increase their 48 states-Alaska passenger fares. Alaska proposes a uniform increase of five percent, except in the Anchorage-Seattle market, where the increase would be 8.9 percent.² Pan American has matched Alaska's proposal in the Seattle-Fairbanks market, the only Alaska market it now serves. Northwest and Western propose to modify their coach-fare structures to reflect the coach-fare formula developed in the *Domestic Passenger-Fare Investigation (DPFI)*. Other fares are calculated as varying percentages of the proposed coach fares. In the major 48 states-Alaska market, Anchorage-Seattle, this approach would result in the same fare proposed by Alaska. (See Appendix C for a fare comparison).

¹Revisions to Airline Tariff Publishing Company, Agent, Tariff CAB No. 258.

²Alaska also proposes to increase its intra-Alaska fares by five percent.

Alaska claims the proposed increases are necessary to offset continuing inflationary pressures and notes that fares in the 48 states-Alaska markets have not been increased as rapidly as those within the 48 states. Northwest and Pan American simply adopt Alaska's supporting data as justification for their own proposals. Western points to the finding in the *DPFI* that fares should be keyed to distance and as closely related to costs as possible, and claims its proposed 48 states-Alaska structure reflects the *DPFI* mileage and cost-based fare structure and replaces the presently conflicting 48 states-Alaska fares.

No complaints have been filed.

Upon consideration of all relevant matters, the Board concludes that the proposed fares may be unlawful and should be suspended pending investigation. Pan American's proposed fares are within the scope of the *Alaska Fares Investigation*, Docket 29198 and their lawfulness will be determined in that proceeding. The investigation of the other carriers' fares will also be consolidated into that proceeding.³

We note initially that the carriers' justifications do not follow the methodology used in the past to determine revenue need for this ratemaking entity. We have consistently considered all 48 states-Alaska operations as one such entity. Alaska has submitted

³We note that the *Alaska Fares Investigation* hearing has been concluded and is awaiting decision by the Administrative Law Judge. The consolidation of this matter in

a return on investment (ROI) for its Anchorage-Seattle market only and, in addition, its calculations for the other carriers reflect data forecast in the formal case rather than actual results for the base period. Northwest and Pan American almost solely, and Western to a great extent, rely on Alaska's justification despite the fact Northwest and Western propose structural changes, which Alaska does not.

Our evaluation of the carriers' revenue need differs materially from the one put forth by Alaska. Alaska has calculated an adjusted ROI of 5.52 percent compared to our 18.0 percent. Because of basic differences in methodology we are not able to reconcile the two analyses.⁴ In any event, our analysis is consistent with the approach we have previously taken in this ratemaking entity. Like Alaska, we have used the latest data available—for the year ended September 1977. Expenses for scheduled passenger services in the 48 states-Alaska ratemaking entity have been allocated to the 48 states-Alaska entity from Alaska's system Form 41 reports and the other carriers' 50-state Form 41 reports. Revenue information is reported separately. On the basis of these data we have developed an ROI by carrier which, when combined, results in a 15.8 percent ROI for scheduled industry passenger operations for the base period. (Appendix A). Adjusting costs and revenues to three months beyond the tariff-effective date reduces the ROI to 12.2 percent.⁵ Further adjusting for the proposed fare increases, however, raises the ROI to 18 percent. (Appendix B). We must conclude therefore, that the proposed increases would produce excessive revenues and should be suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002,

that docket will not affect the procedures already established there.

Despite the much greater ROI we have calculated, it is nevertheless conservative in at least two respects. Consistently with our historical approach in this ratemaking entity, we have excluded the ratemaking adjustments routinely made in evaluating fare level within the 48 states—standard seating, standard load factors, utilization, and discount-fare normalization. Also, we did not adjust for the proposed increases in first-class fares, which by Alaska's estimate would increase the ratemaking ROI by 0.7 percent.

⁴Adjusting costs three months beyond tariff-effective dates is consistent with the methodology recently adopted for the 48 states entity. See Order 77-9-94.

It is ordered that:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix D, and rules, regulations, and practices affecting such fares and provisions, including subsequent revised or reissues thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix D are suspended and their use deferred to and including June 14, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation ordered in paragraph 1 is consolidated into Docket 29198; and

4. A copy of this order be filed in the aforesaid tariff and be served upon Alaska Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc. and Western Airlines, Inc.

By the Civil Aeronautics Board:

All Members concurred.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-6573 Filed 3-13-78; 8:45 am]

[6320-01]

[Docket Nos. 32152; 29554; Order 78-2-100¹]

LAS VEGAS-HOUSTON COMPETITIVE SERVICE INVESTIGATION AND HUGHES AIR CORP. D.B.A. HUGHES AIRWEST

Order; Erratum

FEBRUARY 21, 1978.

Ordering paragraph 10 of Order 78-2-100 failed to name the Houston Chamber of Commerce as a party to the referenced investigation. Ordering paragraph 10 of Order 78-2-100 is accordingly corrected to read, "National Airlines, the City of Houston, and the Houston Chamber of Commerce be made parties to this investigation."

By the Civil Aeronautics Board:

Dated: March 7, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-6575 Filed 3-13-78; 8:45 am]

¹ Published at 43 FR 7994, February 27, 1978.

[6320-01]

[Docket No. 31446; Order 78-3-42]

PIEDMONT AVIATION, INC.

Order To Show Cause

MARCH 9, 1978.

On September 29, 1977, Piedmont Aviation filed an application and a petition for an order to show cause why its certificate of public convenience and necessity for Route 87 should not be amended to change two-stop restrictions in seven Chicago markets to one-stop restrictions. The cities involved are Atlanta, Baltimore, Charlotte, Greensboro-High Point, New York, Raleigh-Durham and Washington, D.C. In support of its application, Piedmont emphasizes that it does not seek to penetrate these markets but rather wishes to improve aircraft routing flexibility to better serve the public. Piedmont also contends that grant of its requested relief will not harm any other carrier and that the nature of the changes is in accordance with the Board's restriction removal policy. This policy, articulated in the Western realignment,¹ provides that, in non-minor markets, an applicant will be restricted to one intermediate stop more than its competitor's best round trip single-plane service in the market. Piedmont contends that this guideline applies to its request since the seven markets are all non-minor, five receive competitive nonstop service, and the other, Chicago-Charlotte, receives nonstop service by Eastern and one-stop service by Delta. Consequently, Piedmont argues, its request for improved authority in these markets lacks significant competitive implications.

An answer in support of Piedmont's application and petition was filed by the North Carolina Department of Transportation. Answers were also filed by four trunk carriers: American, Delta, Eastern and Northwest. All four argue that Piedmont has opposed applications by various trunks requesting relief similar to that sought by Piedmont here; that this position is inconsistent; and that the Board should, therefore, dismiss Piedmont's objections in those cases. While American concedes that Piedmont's request appears to fit the Western guidelines, Delta and Eastern urge deferral until after processing of the trunks' realignments is completed. Northwest, on the other hand, alleges that grant of Piedmont's request could cause it significant harm in the New York-Chicago market, where its service is predominantly one-stop. Since Piedmont has furnished no schedule information, Northwest says it is unable to provide an estimate of the adverse impact and

a hearing should therefore be scheduled to resolve this issue. Northwest further argues that its own similar application was dismissed by Order 77-9-25, September 8, 1977, for the reason that a competitor was able to make a plausible assertion of significant diversion, and that this precedent requires dismissal of Piedmont's request here. Piedmont then filed a motion for leave to file an otherwise unauthorized document, accompanied by a consolidated reply to the answers. This reply contends that the answers seek procedural delay and fail to make any showing why the restrictions should be maintained. Addressing Northwest's diversion claim, Piedmont states that this argument is a sham, since Northwest carries only 2 percent of the Chicago-New York O&D traffic.²

We have tentatively concluded, for the reasons discussed below, that the public convenience and necessity require the modification of Piedmont's two-stop restrictions in the Chicago-Atlanta/Baltimore/Charlotte/Greensboro-High Point/New York/Raleigh-Durham/Washington, D.C. markets to one-stop restrictions; that the application presents no questions of fact or law requiring a full evidentiary hearing complete with the opportunity for oral cross-examination; that all interested persons should be directed to show cause why the Board's tentative findings and conclusions should not be made final; and that Piedmont is a citizen of the United States within the meaning of the Federal Aviation Act of 1958, as amended, and is fit, willing, and able properly to perform the transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations and requirements. Since Piedmont has indicated that its proposals will not result in any substantial increase in air carrier operations, we also tentatively find that the proposed action will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102 (2)(C) of the National Environmental Policy Act of 1969.

In support of our determination, we tentatively find that the proposed amendments are consistent with the Board's policy of eliminating or modifying certificate restrictions absent an affirmative showing that their continuance is required.³ The authority requested here will permit increased scheduling and operating flexibility

²We reiterate our concern with unauthorized replies whose primary function is to have the last word. While Piedmont's reply merits this description, we believe that the material in Northwest's answer could not have been anticipated, and we will grant the motion.

³See, e.g., Order 77-11-41 and orders cited in n. 9.

¹Order 76-5-101, May 21, 1976.

and, thereby, improve service and economic performance, may reduce subsidy need and some passenger fares, and will reduce flight circuitry in some markets. As Piedmont contends, the requested modification is supported by its inclusion within the realignment guidelines we established in the *Western* case. Under these circumstances, the modification of these two-stop restrictions is presumptively in the public interest and is required by the public convenience and necessity. The burden of demonstrating that removal will impair adequacy of service to any point or have a substantial adverse impact on another carrier has not been met by any of the opponents.⁴ Nor is Northwest's diversion claim substantial enough to reject the use of show-cause procedures, given its small stake in the market.

Northwest's answer does raise one issue which merits discussion. It appears that our treatment of applications for restriction removal has caused confusion over what type of application will receive immediate attention. Northwest's application for authority to operate one-stop single-plane service between Milwaukee and points in California was deferred and its motion for a show-cause order was denied in Order 77-9-25, September 8, 1977. Our action was based on strong opposition by United, coupled with the realization that the matter could be more efficiently handled as part of Northwest's pending route realignment application. We have also denied several Continental applications for removal of nonstop and single-plane prohibitions.⁵ On the other hand, we have proposed to remove similar restrictions in some carriers' certificates (e.g., Braniff, Eastern and Continental by Order 77-9-136, September 30, 1977, North Central by Order 75-2-22, February 5, 1975, and Ozark by Order 77-3-175, March 31, 1977).

However, North Central's application was filed after its realignment, and this is the primary criterion for grant of restriction removal requests. Absent overriding considerations, we will not process restriction removal applications out of turn if the authority requested is entirely or substantially duplicated in a pending route realignment. Such a piecemeal approach would delay the analysis of the numerous realignment applications on file. These will be processed in chronological order and attempts to change the order will be discouraged. Cases where we have removed restrictions prior to realignment present examples of overriding considerations. Removal of prohibitions against single-plane service in the Miami/Tampa/Atlanta-Port-

land/Seattle markets (Order 77-9-136) was prompted by the grant of single-plane authority to Western by virtue of its Miami-Los Angeles award. This action is analogous to removal of restrictions in the certificates of competing carriers in the realignment of an applicant's route system.

There are also limits to the extent we will amend a carrier's certificate after realignment in the context of a restriction removal application. Where the application involves many markets or numerous restrictions, or where serious opposition is encountered, the application will be viewed as an attempt to circumvent our orderly process and the applicant will be directed to file a realignment application.⁶ Piedmont's route system was realigned in 1973 and its application in this case presses close to the limit, especially since we have recently proposed granting relief from similar restrictions in other markets.⁷

Accordingly, it is ordered that:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Piedmont Aviation, Inc. for Route 87 to change its two-stop restrictions to one-stop restrictions in the following markets: Chicago-Atlanta/Baltimore/Charlotte/Greensboro-High Point/New York/Raleigh-Durham/Washington, D.C.;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions or certificate amendments set forth in this order shall, within 30 days of the date of adoption of this order, file with the Board and serve upon all persons listed in paragraph 7 a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections;⁸

3. Answers to such objections shall be filed 10 days thereafter;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections, together with any answers timely filed, before action is taken by the Board;

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

6. The motion of Piedmont Aviation in Docket 31446 for leave to file an

otherwise unauthorized document be granted;

7. This order shall be served on all persons listed in the service list attached to the petition of Piedmont Aviation, Inc. for an order to show cause, filed in Docket 31446.

This order will be published in the *FEDERAL REGISTER*.

By the Civil Aeronautics Board:

All members concurred.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-6574 Filed 3-13-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

SCARSDALE FABRICS, INC., ET AL

Petitions for Determinations of Eligibility To
Apply for Trade Adjustment Assistance

Petitions were accepted for filing from three firms: (1) Scarsdale Fabrics, Inc., 1071 Avenue of the Americas, New York, N.Y. 10018, a converter of fabrics (accepted March 6, 1978); (2) William B. Kessler, Inc., Room 1800, 1290 Avenue of the Americas, New York, N.Y. 10019, a producer of men's suits, sportcoats, and trousers (accepted March 7, 1978); and (3) Bata Shoe Co., Inc., Belcamp, Md. 21017, a producer of athletic, casual and work shoes for men, women, and children (accepted March 7, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of

⁴Order 77-11-41, p. 5.

⁵Order 77-11-117, November 22, 1977; Order 77-12-116, December 22, 1977.

⁶Order 73-9-37, September 10, 1973.

⁷Order 77-11-41, November 10, 1977.

⁸Since provision is made for filing of objections, no petitions for reconsideration of this order will be entertained.

the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-6580 Filed 3-13-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-597]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., has filed an application dated February 2, 1978, supplemented by letter of February 28, 1978, which requests amendment of its interim Operating-Differential Subsidy Agreement, Contract No. MA/MSB-420, which shall terminate on December 31, 1978, or upon the signing of a new agreement, to establish a subsidized service with a maximum of 25 sailings annually, utilizing break-bulk vessels of C3-S-37c, C3-S-37d, C5-S-37e, and C5-S-37f design now included in its existing Operating-Differential Subsidy Agreement, Contract No. MA/MSB-420, as follows:

REQUIRED SERVICE

Between U.S. ports on the Great Lakes and St. Lawrence River and ports on the north coast of South America and foreign ports in the Gulf of Mexico and Caribbean Sea (Mexico-French Guiana, inclusive) and all islands of the Caribbean and West Indies (except Puerto Rico).

PERMISSIVE

Between a Canadian port or ports on the Great Lakes and St. Lawrence River and a foreign port or ports on the required service.

PRIVILEGE

Between a U.S. port or ports on the St. Lawrence River and a Canadian port or ports on the Great Lakes.

Between a U.S. port or ports on the Great Lakes and a Canadian port or ports on the St. Lawrence River.

Between a port or ports on the Great Lakes and the St. Lawrence River and a port or ports on the west coast of South America.

Between a port or ports on the Great Lakes and the St. Lawrence River and a port or ports on the west coast of Central America.

During the winter season while Great Lakes ports are closed (December-April) service will be provided between the ports of Albany, N.Y., and St. John, New Brunswick, and Halifax, Nova Scotia, and foreign ports on the service.

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 March 23, 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.

Dated: March 9, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-6603 Filed 3-13-78; 8:45 am]

[3510-22]

MARINELAND OF MORECAMBE

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: (a) Name, Marineland of Morecambe, G. D. Smith. (b) Address, Morecambe, Lancashire, England.

2. Type of Permit: Public display.

3. Name and Number of Animals: Atlantic bottlenosed dolphins (*Tursiops truncatus*) (2).

4. Type of take/importation: To capture and maintain in captivity.

5. Location of Activity: Copano Bay, Rockport, Tex.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Department of the Environment of the United Kingdom, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity;

(b) Includes: i. A verification from the Ministry of Agriculture, Fisheries, and Food of the United Kingdom, of the information set forth in the application;

ii. A certification from the Department of the Environment that the Government of the United Kingdom is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. A statement that the Department of the Environment will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Environment and the Ministry of Agriculture, Fisheries, and Food of the United Kingdom have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: March 9, 1978.

ROLAND FINCH,
Acting Deputy Assistant Director
for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-6588 Filed 3-13-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric
Administration

AQUARIUM OF CAPE COD, INC.

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: (a) Name, Aquarium of Cape Cod, Inc., Joseph R. Crimmins, President. (b) Address, Route 28, West Yarmouth, Mass. 02673.

2. Type of permit: Public display.

3. Name and number of animals: Harbor seals (*Phoca vitulina*) (2).

4. Type of take/importation: To capture and maintain 2 harbor seals for public display.

5. Location of activity: Casco Bay, Maine.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region,

Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: March 7, 1978.

ROLAND FINCH,
Acting Deputy Assistant Director
for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-6589 Filed 3-13-78; 8:45 am]

[3510-22]

PACIFIC FISHERY MANAGEMENT
COUNCIL'S DUNGENESS CRAB AD-
VISORY SUBPANEL AND PLAN-
NING TEAM

Public Meeting

Notice is hereby given of a joint meeting of the Pacific Fishery Management Council's Dungeness Crab Advisory Subpanel and Planning Team, established under the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet Monday and Tuesday, April 3-4, 1978, at the Oregon Department of Fish and Wildlife Office located at 506 Southwest Mill Street, Portland, Oreg.

The meeting will convene at 1 a.m. and adjourn at about 5 p.m. on April 3, and will reconvene at 9 a.m. and adjourn about 5 p.m. on April 4.

Proposed Agenda: Discussion of Dungeness Crab Management Plan.

Meeting is open to the public. For more information on seating arrangements, changes to the agenda, and/or written comments, contact Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 Southwest Mill Street, Second Floor, Portland, Oreg. 97201, telephone 503-221-6352.

Dated: March 8, 1978.

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

[FR Doc. 78-6571 Filed 3-10-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY
COMMISSION

EAGLE CARPETS, INC.

Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Eagle Carpets, Inc., trading as Eagle Carpet Mills, and two corporate officers, in which they agree to cease and desist from selling and distributing in commerce certain carpets that fail to conform to the carpet

standard and from furnishing false guarantees. If finally accepted, this consent agreement will settle allegations of the Commission staff that Eagle Carpets, Inc., and corporate officers have violated the provisions of the Flammable Fabrics Act.

DATES: Written comments on the provisionally accepted consent agreement must be received by the Commission by March 29, 1978.

ADDRESSES: Written comments should be permitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed or obtained from the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION
CONTACT:

George J. Miller, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. Phone 301-492-6629.

Dated: March 8, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer
Product Safety Commission.

[FR Doc. 78-6563 Filed 3-13-78; 8:45 am]

[6355-01]

SOUTHERN BEDDING CO., INC.

Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Southern Bedding Co., Inc. and a corporate officer, in which they agree to conform to the prototype and production testing and recordkeeping requirements of the mattress standard. If finally accepted, this consent agreement will settle allegations of the Commission staff that Southern Bedding Co., Inc. and corporate officer have violated the provisions of the Flammable Fabrics Act.

DATES: Written comments on the provisionally accepted consent agreement must be received by the Commission by March 29, 1978.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed or obtained from the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION
CONTACT:

James Wood, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. Phone 301-492-6621.

Dated: March 8, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer
Product Safety Commission.

[FR Doc. 78-6564 Filed 3-13-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. on March 30, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as Infrared and Night Vision Sensors. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence
and Directives, WHS, DOD.

MARCH 8, 1978.

[FR Doc. 78-6543 Filed 3-13-78; 8:45 am]

[1505-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration
SOUTHERN CALIFORNIA GAS CO.

Availability of Environmental Assessment on
Proposed Waiver of Propane Purchase and
Use Limitations

Correction

In FR Doc. 78-6465 appearing at page 10434 in the issue for Monday, March 13, 1978, in the middle column of page 10434, in the paragraph for "DATE", the comment date now reading "March 31, 1978" should have read "April 3, 1978". Also, in the third line from the top of the first column of page 10435, the date given for the receipt of comments now reading "March 31, 1978" should be changed to "April 3, 1978".

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[ISS Docket No. 78-84]

JAMES R. LAVIN

Designating Application for Hearing on Stated
Issues

Adopted: March 6, 1978.

Released: March 8, 1978.

In the matter of application of James R. Lavin, 3803 Lore Road, Anchorage, Alaska 99507, for a Citizens Band Radio station license.

The Chief, Safety and Special Radio Services Bureau, has under consideration an application for a Citizens Band Radio station license filed by James R. Lavin and dated April 25, 1977.

1. On February 7, 1975, the Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority, released an Order (SS-2008-75) directing Lavin to show cause why his Citizens Radio station license¹ should not be revoked and why he should not be ordered to cease and desist from further violations of Section 301 of the Communications Act of 1934, as amended, and further violations of the Commission's Rules.² Lavin waived his right to a hearing on the matter.

2. On July 17, 1975, the Commission by the Chief, Safety and Special Radio Services Bureau, pursuant to delegat-

¹Effective January 27, 1977, the Commission changed the name of the Class D Citizens Radio Service to the Citizens Band Radio Service. 41 FR 56068.

²Certain Sections of Part 95 of the Commission's Rules have been revised, renumbered, or deleted. The Sections referred to herein are those in effect at the time of operation.

ed authority, released an Order (SS-2008-75) revoking Lavin's Citizens Band Radio station license. The order concluded that Lavin's station was operated in violation of the Commission's Rules in the following manner:

95.95(c) (station identification)—12 violations between July 26 and November 29, 1974.

95.41(d)(2) (frequencies reserved for intra-station use) 10 violations between July 26 and November 13, 1974.

95.83(a)(5) (communications with unlicensed stations prohibited)—4 violations between August 10 and September 15, 1974.

95.83(a)(6) (undirected communications prohibited)—violations on July 29 and August 27, 1974.

95.43 (power limitations)—Violation on October 3, 1974.

95.91(b) (five-minute limit on communications)—violation on July 26, 1974.

95.87(b)(7)(iii) (unauthorized operator)—violation on October 3, 1974.

The Order further concluded that Lavin repeatedly violated § 1.89 (failure to respond to Commission correspondence) of the Rules.

3. On July 17, 1975, the Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority, also released an Order (SS-2008-75) directing Lavin to cease and desist from further violations of the Commission's Rules and of Section 301 of the Communications Act of 1934, as amended. Lavin was directed to cease and desist because of his many violations of the Commission's Rules on numerous dates between July 26 and November 29, 1974, and his twelve instances of failure to respond to official correspondence.

4. On October 19, 1976, in United States District Court for the District of Alaska, Lavin pled guilty and was convicted on charges that on August 22, 1975, he operated radio transmitting equipment without a license in violation of Sections 301 and 501 of the Communications Act of 1934, as amended (Docket No. A75-146 CR). On October 19, 1976, Lavin was fined \$1,000 and was placed on probation for a period of two years. One of the terms of Lavin's probation is:

During his period of probation defendant is not permitted to own or operate any radio equipment for the purpose of transmitting.

No appeal was taken from the conviction or the sentence.

5. In view of the findings and conclusions of the Order of Revocation (SS-2008-75) and the Order to Cease and Desist (SS-2008-75) and Lavin's conviction on October 19, 1976 of violating Section 301 of the Communications Act of 1934, as amended, it cannot be determined that grant of Lavin's application would serve the public interest, convenience, and necessity. Therefore, his application must be designated for hearing. The findings and conclusions

of the Order of Revocation, the Order to Cease and Desist, and the criminal conviction shall be res judicata as to the applicant and shall not be relitigated in this proceeding.

6. Accordingly, it is ordered, pursuant to § 309(e) of the Communications Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's Rules, that Lavin's application is designated for hearing at a time and place to be specified by subsequent Order upon the following issues:

(1) To determine the effect of the facts and conclusions contained in the Order of Revocation, released on July 17, 1975 (SS-2008-75), and in the Order to Cease and Desist, released July 17, 1975, (SS-2008-75), upon the applicant's qualifications to be a licensee of the Commission.

(2) To determine the effect of the conviction on October 19, 1976, of violation of Section 301 of the Communications Act of 1934, as amended, in the United States District Court, District of Alaska, upon the applicant's qualifications to be a licensee of the Commission.

(3) To determine, in light of the evidence adduced under the foregoing issues, whether the applicant has the requisite qualifications to be a licensee of the Commission.

(4) To determine whether the public interest, convenience and necessity would be served by a grant of the application for a Citizens Band radio station license.

It is further ordered, That to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty days of the mailings of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in the Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

It is further ordered, That a copy of this Order shall be sent by registered mail-return receipt and by regular mail to the applicant at the address in the caption.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN
Chief, Legal, Advisory and
Enforcement Division.

[FR Doc. 78-6570 Filed 3-13-78; 8:45 am]

[6820-27]

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCIL

Advisory Committee Review

Notice is hereby given that the National Archives and Records Service has conducted a review of the National Archives Advisory Council in accordance with OMB Circular No. A-63, Transmittal Memorandum No. 5. The public is invited to comment on the results of the review and to offer recommendations on the continuation or termination of this advisory committee. The results of the review are available for inspection in room 403, National Archives Building, 8th and Pennsylvania Avenue NW., Washington, D.C. 20408, weekdays between 8:45 a.m. and 5:15 p.m. Comments and recommendations should be sent to the NARS Committee Management Officer, General Services Administration (NAA), Washington, D.C. 20408, on or before March 17, 1978.

Issued in Washington, D.C. on March 7, 1978.

JAMES E. O'NEILL,
Acting Archivist of
the United States.

[FR Doc. 78-6579 Filed 3-13-78; 8:45 am]

[1505-01]

GOVERNMENT PRINTING OFFICE

DEPOSITORY LIBRARY COUNCIL TO THE PUBLIC PRINTER

Meeting

The Depository Library Council to the Public Printer will meet on April 17 and 18, 1978, at the Holiday Inn-Superdome, New Orleans, La.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Any member of the public who wishes to attend shall notify Mr. J. D. Livsey, Head, Library and Statutory Distribution Service, Government Printing Office, Washington, D.C. 20401, telephone area code 703-557-2050.

General participation by members of the public, or questioning of Council members of other participants, shall be permitted with approval of the Chairman.

Dated: February 28, 1978.

JOHN J. BOYLE,
Public Printer.

[FR Doc. 78-6517 Filed 3-13-78; 8:45 am]

[1505-01]

MICROPUBLISHING ADVISORY COUNCIL TO THE PUBLIC PRINTER

Meeting

The Micropublishing Advisory Council to the Public Printer will meet on April 14, 1978, at the Government Printing Office, North Capitol and H Streets NW., Washington, D.C. 20401.

The purpose of this meeting is to discuss the Depository Library Microform Program.

The meeting will be open to the public. Any member of the public who wishes to attend should notify Miss Cindy Perry, Government Printing Office, Washington, D.C. 20401, telephone number 703-557-2050.

Dated: February 28, 1978.

JOHN J. BOYLE,
Public Printer.

[FR Doc. 78-6518 Filed 3-13-78; 8:45 am]

[4110-89]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the requests to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before April 13, 1978, and should be addressed to Administrator, National Center for Education

Statistics, Attn.: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: March 8, 1978.

ROLF WULFSBERG,
Acting Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

State Financial Status and Performance Report for the Migrant Program.

2. AGENCY/BUREAU/OFFICE

Office of Education/Bureau of Elementary and Secondary Education/Compensatory Educational Programs/Division of Education for the Disadvantaged/Migrant Branch.

3. AGENCY FORM NUMBER

OE-362-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Section 422(a) The Commissioner shall * * * (3) collect data and information on applicable programs * * *." (20 U.S.C. 1231a) Pub. L. 92-318.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Obligatory.

6. HOW INFORMATION COLLECTED WILL BE USED

To determine accomplishments as proposed in the application and concomitant slippages, as well as reporting on funds expended, obligated, and unobligated.

7. DATA ACQUISITION PLAN

- (a) Method of collection: Mail.
- (b) Time of collection: December.
- (c) Frequency: Annually.

8. RESPONDENTS

- (a) Type: State agencies.
- (b) Number: 47.
- (c) Estimated average man-hours per respondent: 20.

9. INFORMATION TO BE COLLECTED

The Standard Financial Status Report will be used with 8 of the 13 rows in Item 10 deleted; i.e., rows (a), (b), (c), (d), (e), (f), (h), and (i). The Performance Report requests information on meeting program objectives, children served, staff, inservice training, parental involvement, exemplary

components, interstate coordination, and provisions for equal access to State and local services.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Report.

2. AGENCY/BUREAU/OFFICE

Office of Education, Bureau of Elementary and Secondary Education, Indochinese Refugee Children Assistance Program.

3. AGENCY FORM NUMBER

OE 443-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 4(c) " * * * a final report shall be submitted * * *." (22 U.S.C. 2601). Pub. L. 94-405.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Obligatory.

6. HOW INFORMATION COLLECTED WILL BE USED

To determine funds were spent for program purposes; program accomplishments and slippages.

7. DATA ACQUISITION PLAN

- (a) Method of collection: By mail.
- (b) Time of collection: On or before December 30, 1978.
- (c) Frequency: Once.

8. RESPONDENTS

- (a) Type: SEAs.
- (b) Number: 52.
- (c) Estimated average man-hours per respondent: 5 hours.

9. INFORMATION TO BE COLLECTED

The standard Financial Status Report Form from OMB Circular No. A-102 will be used. A program narrative based on the requirements of Attachment I of the same circular will also be requested. Data requested will be the number of children served in elementary (K-8) and secondary (9-12) grades.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Lenders Application for Contract of Federal Loan Insurance, Health Education Assistance Loan (HEAL) Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Student Financial Assistance, Division

of Policy and Program Development, Health Loan Branch.

3. AGENCY FORM NUMBER

OE 621-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Section 732(a)(1). If upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible borrower which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance." Pub. L. 94-484.

"Section 732(a)(3)(a)(1). An application submitted pursuant to subsection (a)(1) shall contain (a) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation." (42 U.S.C. 294E) Pub. L. 94-484.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This information will be used to determine the insurability of the loan under statutory and regulatory guidelines.

7. DATA ACQUISITION PLAN

- (a) Method of collection: Mail.
- (b) Time: As needed.
- (c) Frequency: Single time.

8. RESPONDENTS

- (a) Type: Health Professions Schools.
- (b) Number: 320.
- (c) Estimated average man-hours per respondent: ¼ hour.
- (a) Type: Financial institutions.
- (b) Number: 200.
- (c) Estimated average man-hours per respondent: ¼ hour.

9. INFORMATION TO BE COLLECTED

Lender identification information: Name, address, type of institution, employer identification number, place of incorporation and type of government regulation.

Financial information: Statement of financial condition, list of branches.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Student Application for a Health Education Assistance Loan (HEAL).

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Student Financial Assistance, Division of Policy and Program Development, Health Loan Branch.

3. AGENCY FORM NUMBER

OE 621-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sections 735(a). "(1) Prescribe such regulations as may be necessary to carry out the purposes of this subpart * * *." (42 U.S.C. 294E) Pub. L. 94-484.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This information will be used to perform the following program management functions:

- (1) To assist lenders in determining the amount of loan;
- (2) To determine the insurability of the loan under statutory and regulatory guidelines.

7. DATA ACQUISITION PLAN

- (a) Method of collection: Mail.
- (b) Time: Usually summer and early fall.
- (c) Frequency: Annually.

8. RESPONDENTS

- (a) Type: Students.
- (b) Number: 9,000.
- (c) Estimated average man-hours per respondent: ¼ hour.
- (a) Type: Financial aid officers.
- (b) Number: 320.
- (c) Estimated average man-hours per respondent: ¼ hour.
- (a) Type: Financial institutions.
- (b) Number: 200.
- (c) Estimated average man-hours per respondent: 5 minutes.

9. INFORMATION TO BE COLLECTED

Student: Identification and address information, eligibility information including course of study and demographic information.

Financial aid officer: School identification information, student eligibility information, costs of education and

financial aid awarded to the student, recommended loan amount.

Financial institution: Lender identification information, approved loan amount.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Loan Transfer Statement.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Student Financial Assistance, Division of Policy and Program Development, Health Loan Branch.

3. AGENCY FORM NUMBER

OE 621-3.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 732 (a)(3) "(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned by such lender, subject to regulation by the Secretary, only to (1) another eligible lender, or (2) the Student Loan Marketing Association." Pub. L. 94-484 (42 U.S.C. 294E).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This information will be used to perform two primary program management functions:

- (1) To determine when the student loan has been transferred from one eligible lender to another.
- (2) To keep on record the name of the current holder of the loan to whom the United States Government is liable in the event of a valid claim.

7. DATA ACQUISITION PLAN

- (a) Method of collection: Mail.
- (b) Time of collection: Throughout the year.
- (c) Frequency: On occasion.

8. RESPONDENTS

- (a) Type: Financial aid officials and lenders.
- (b) Number: 520.
- (c) Estimated average man-hours per respondent: ¼ hour.

9. INFORMATION TO BE COLLECTED

Name, address, lender code of the buyer and the seller of the student loan, date of transaction, amount transferred and appropriate signatures.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Assessment of Educational Programs in State-Supported and State-Operated Schools for the Handicapped (Pub. L. 89-313).

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Education for the Handicapped.

3. AGENCY FORM NUMBER

OE Form 622.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Commissioner is authorized * * * to make contracts with States, State or local education agencies, institutions, of higher education, and other public and private educational or research agencies and organizations, for research and related purposes and to conduct research, surveys, or demonstrations, relating to education of handicapped children." (Pub. L. 91-230, Part E, Section 641; 20 U.S.C. 1441; 45 CFR 121h.2.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION WILL BE USED

(a) Evaluation: Study results will be used to respond to congressional inquiry/requirements for an assessment of the operation of Pub. L. 89-313, its effectiveness and achievements. Specifically, the Senate Appropriations Committee Report accompanying the 1978 Labor-HEW Appropriations Bill directed that the continued need for the Title I set-aside be demonstrated. This assessment will supplement that directive and provide information for congressional hearings to be held during fiscal year 1978.

(b) Program Management: Descriptive information and evaluative data produced will be used by the Bureau of Education for the Handicapped in its monitoring and compliance functions and to identify administrative models in operation that can be demonstrated/replicated in other locations through technical assistance provided by the BEH.

7. DATA ACQUISITION PLAN

- (a) Method of Collection: Personal interview.
- (b) Time of Collection: Spring 1978.
- (c) Frequency: Single Time.

8. RESPONDENTS

- (a) Type: State Agencies.
- (b) Number: Sample-36.
- (c) Estimated average man-hours per respondent: 1.5 hours.

(a) Type: State Institutions/day programs.

(b) Number: Sample—72.

(c) Estimated average man-hours per respondent: 1.5 hours.

9. INFORMATION TO BE COLLECTED

(a) State Agencies:

(1) Administration of the Program—examination of administrative models in operation and the manner in which the following functions are handled: monitoring, auditing, project evaluation, project approval, and personnel assignments. The analysis would include a review of the methods by which ADA counts are validated.

(2) Program Standards—an examination of the standards for program operation in relation to state regulation standards for LEA's.

(3) Fiscal Analysis—review of the allocation and distribution of Pub. L. 89-313 funds and a description of the procedures used to track funding allotments as they flow to the LEAs (i.e., the transfer provision). A comparison, by handicapping conditions, of the expenditures for services for Pub. L. 89-313 eligible children.

(b) State Institutions/day programs:

(1) Program Standards—review of the standards for admission, child assessment, program evaluation, personnel requirements, and pupil/teacher ratios; and to determine what standards exist and how they compare to standards set at the SEA level.

(2) Program Characteristics of Service Delivery Providers—review of the programs/services provided to handicapped children eligible under Public L. 89-313 funding.

(3) Fiscal Analysis of Services Provided—a review of the uses of State and local funds compared to Federal moneys.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Validation Form—Basic Educational Opportunity Grant Program.

2. AGENCY/BUREAU/OFFICE

Office of Education/Bureau of Student Financial Assistance/Division of Certification and Program Review.

3. AGENCY FORM NUMBER

OE-623.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 411(b)(2).

(2) "Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Commissioner may deem necessary to enable him to carry out his functions and responsibilities under this subpart."

Sec. 411(b)(3)(A).

(3)(A) "Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purpose, in such manner as will best accomplish the purposes of this section" (20 USC 1070a) (Pub. L. 92-318).

Sec. 411(b)(d)(1).

(d)(1) "In addition to payments made with respect to entitlements under this subpart, each institution of higher education shall be eligible to receive from the Commissioner the payment of \$10 per academic year for each student enrolled in that institution who is receiving a Basic Grant under this subpart for that year. Payment received by an institution under this subsection shall be used first to carry out the provision of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary" (20 U.S.C. 1070a) (Pub. L. 92-318).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Obligatory.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The data collected by the institutions will be used only to verify information on the respondent's Student Eligibility Report. This data will remain in the regular student-aid files at the institutions. Any corrections necessary as a result of validation will be made through the normal Basic Grant corrections process.

7. DATA ACQUISITION PLAN

(a) Method of collection: "Mail" and/or "Personal Interview."

(b) Time of collection: Throughout the year.

(c) Frequency: Annually.

8. RESPONDENTS

(a) Type: Students in Postsecondary education.

(b) Number: Sample—200,000.

(c) Estimated average man-hours per respondent: 1.

(a) Type: Financial Aid Offices in Postsecondary Institutes.

(b) Number: Approximately 5,600.

(c) Estimated average man-hour per respondent: 1.

9. INFORMATION TO BE COLLECTED

Students: Categories of collected data are (A) respondent identification; (B) verification of information submitted on Basic Grant application (i.e., applicant's status, number in household, number in post-high, Veterans educational benefits, non-taxable income received in 1977, applicant's and parent's or spouse's Federal Income Tax return, explanation of

total income less than \$1,000, explanation of inability to provide documentation) and (c) certification of validity of information submitted (i.e., non-taxable income, Veteran's benefits, etc.)

Financial Aid Officers: Verify the information provided by the student and maintain the material and records in the student's file.

[FR Doc. 78-6523 Filed 3-13-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0026]

CERTAIN NEW ANIMAL DRUG PRODUCTS CONTAINING PHENOTHIAZINE

Opportunity for Hearing

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: This document gives notice of opportunity for a hearing on a proposal to withdraw approval of certain new animal drug applications (NADA's) for products containing phenothiazine. The holders of the listed applications have failed to submit certain required reports.

EFFECTIVE DATE: Written appearances requesting a hearing must be submitted by April 12, 1978.

ADDRESS: Written requests 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:

Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4314.

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (hereinafter called the Director) is providing an opportunity for a hearing on a proposal to withdraw approval of the following NADA's:

1. Crockett Laboratories Co., San Antonio, Tex. 77505, NADA 3-544V, PETRO-ZINE (Phenothiazine and liquid petrolatum).

2. Double Kay Chemical Co., P.O. Box 149, Circleville, Ohio 43113, NADA 3-759V, Double Kay No. 3 for Worms in Sheep (Phenothiazine and refined mineral oil).

3. Florida Chemical Industries, Sparr, Fla. 32690, NADA 4-129V, Helminex Liquid (Phenothiazine).

4. G. C. Heberling Co., Bloomington, Ill. 61701, NADA 4-155V, Phenothiazine Emulsion.

5. Washington Cooperative Egg and Poultry Association, 201 Elliott Avenue West, Seattle, Wash. 98119, NADA 4-391V, Phenothiazine.

6. The Shores Co., Inc., 712 16th Street NE., Cedar Rapids, Iowa 52402, NADA 3-289V, Korn King Phenothiazine Tablets for Sheep.

The Commissioner of Food and Drugs announced in a notice published in the *FEDERAL REGISTER* of July 9, 1966 (31 FR 9426) that holders of NADA's that were cleared through new animal drug procedures between 1938 and October 10, 1962, were required to submit certain data, including data supporting efficacy of the products, to ease review of such products by the National Academy of Sciences/National Research Council (NAS/NRC). This review was to determine whether there may be grounds for withdrawing approval of the applications. The required report was to be made as soon as possible and not later than 60 days after the date of publication. The listed companies failed to submit reports for the listed products as required by the July 9, 1966, *FEDERAL REGISTER* notice. In fact, there has been no correspondence to FDA from any of the above-noted holders in over 30 years. Consequently, each listed firm has also failed to comply with § 510.310 Records and reports on new animal drugs and antibiotics for use in animals for which applications or certification Forms 5 and 6 became effective or were approved prior to June 20, 1963 (originally published as § 135.35 (21 CFR 135.35) in the *FEDERAL REGISTER* of September 14, 1971 (36 FR 18378); recodification published in the *FEDERAL REGISTER* of March 27, 1975 (40 FR 13802)). This regulation requires submission of a report containing certain information from the holder of the application for each new animal drug or antibiotic approved prior to June 20, 1963.

Section 512(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)) requires the sponsors of approved NADA's to maintain records and make such reports on such drug that are deemed necessary by general regulation or order to determine or facilitate a determination whether there is or may be grounds for withdrawing approval of the drug under section 512(e) of the Act.

Sections 512(e) and § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115) permit the withdrawal of approval of an application for the failure of the applicant to make required reports in accordance with a regulation or order under section 512(l) of the Act.

Therefore, notice is given to the above-listed firms and to any other interested persons who may be adversely affected, that the Director proposes to issue an order under section 512(e) of the Act withdrawing approval of the

listed NADA's and all amendments and supplements thereto because the holders of the listed applications have repeatedly or deliberately failed to make required reports. In accordance with the provisions of section 512 of the Act, section 108 of Pub. L. 90-399, and the regulations promulgated thereunder (21 CFR Part 510), the holders of approval for the drug products named above and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approval of the product should not be withdrawn and opportunity to raise, for administrative determination, all issues related to the legal status of the drug products named above. Any other interested person may also submit comments on this notice within the time and under the requirements specified in this notice.

The holder of an approval and any other persons subject to this notice shall file on or before April 12, 1978, a written appearance electing whether to avail himself/herself of an opportunity for a hearing, or not to avail himself/herself of an opportunity for a hearing. Such written appearance shall give the reason why the approval should not be withdrawn.

The failure of the holder of an approval to file timely written appearance and request for hearing as required by § 514.200 (21 CFR 514.200) constitutes an election not to avail himself/herself of the opportunity for a hearing, and the Director will summarily enter a final order withdrawing the approval.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the request for a hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application, the Commissioner of Food and Drugs will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice must be filed in four copies with the Hearing Clerk, Food and Drug Administration, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905. Responses to this notice may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, between 9 a.m. and 4 p.m., Monday through Friday.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for a hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practical.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: March 3, 1978.

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

[FR Doc. 78-6427 Filed 3-13-78; 8:45 am]

[4110-03]

[Docket No. 78F-0034]

DISTRIBUTORS PROCESSING, INC.

Filing of Petition for Food Additive Permitted
in Animal Feed

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Distributors Processing, Inc., has filed a petition proposing that the regulations be amended to provide for safe use of dried pulverized stems of *Yucca schidigera* in poultry feed to reduce ammonia emissions from decomposing poultry manure.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (MF-3712) has been filed by Distributors Processing, Inc., 17626 Avenue 168, Porterville, Calif. 93257, proposing that the food additive regulations under part 573 (21 CFR part 573), be amended to provide for the safe use of dried pulverized stems of *Yucca schidigera* in poultry feed to reduce ammonia emissions from decomposing poultry manure.

The environmental impact analysis report and other relevant material are being reviewed to determine whether the proposed use of the additive will have a significant environmental impact. In accordance with the provisions of § 25.25(b) (21 CFR 25.25(b)), published in the *FEDERAL REGISTER* of April 15, 1977 (42 FR 19992) of the environmental impact regulations, environmental impact consideration of the final action on this petition will be addressed in a future publication.

Dated: March 7, 1978.

FRED J. KINGMA,
Acting Director, Bureau of
Veterinary Medicine.

[FR Doc. 78-6419 Filed 3-13-78; 8:45 am]

[4110-03]

[Docket No. 78D-0010]

**LABELING OF ARECOLINE BASE DRUGS
INTENDED FOR ANIMAL USE**

Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces that the Bureau of Veterinary Medicine has developed a labeling guideline, which is now available, for arecoline-base drugs intended for animal use. Arecoline-base drugs are used against tapeworms in dogs. The Food and Drug Administration has received many inquiries about the drug's labeling, and the guideline is designed to answer the most common questions.

DATE: Comments by May 12, 1978.

ADDRESS: Comments should be addressed to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Leonard Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Over the past several years, the agency has received many inquiries whether drugs containing arecoline (arecoline-base compounds are anticestodal (antitapeworm) drugs) and intended for animal use should bear the label statement, "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

Anticestodal drugs are referred to as taeniocides when they cause death of the tapeworm in situ, and taenifuges when they simply cause or facilitate tapeworm expulsion. Tapeworms maintain their position in the digestive tract by attachment of the scolex to the mucosa and by undulation.¹

Arecoline-base drugs are effective against tapeworms of dogs and are administered for removal of *Taenia pisiformis* and *Dipylidium caninum* from the dog.

The anticestodal action of arecoline appears to be exerted both by paralyz-

ing the worm until it loosens its attachment to the intestinal mucosa, and at the same time by stimulating increased peristalsis so that the detached worm is expelled. The drug causes only temporary paralysis of tapeworms. Worms are likely to recover and reattach if purgation has not occurred satisfactorily within approximately 2 hours after medication.²

Parasympathomimetic agents have as their primary action the stimulation or inhibition of the same autonomic effector cells acted upon by postganglionic parasympathetic, or cholinergic, nerve impulses. These agents may be divided conveniently into two groups: (1) acetylcholine and several synthetic choline esters and related derivatives; and (2) the naturally occurring cholinomimetic alkaloids, particularly pilocarpine, muscarine, and arecoline. In addition, the anticholinesterase agents (organophosphates) and ganglionic stimulants have parasympathomimetic actions, but these are accompanied by prominent effects at the other sites of cholinergic transmission.² Arecoline is a parasympathomimetic drug having a final reaction similar to organophosphates. Organophosphates are an integral part of numerous products, including those for household pets, such as dog flea collars; therefore arecoline should not be used concurrently with the other organophosphate compounds. The drug is also a possible abortifacient. Because of toxicity and the potential of significant side effects and the contraindications to use drugs containing arecoline in animals, the Food and Drug Administration believes that such drugs should only be used under the supervision of the licensed veterinarian.

Upon inquiry, FDA has advised firms marketing such products that they should bear labeling restricting for use by or on the order of a licensed veterinarian in accordance with § 201.105 (21 CFR 201.105). In the agency's opinion, drugs for animal use that contain arecoline and do not bear such restrictive labeling are misbranded under section 502(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)(1)) and are subject to regulatory action.

Requests for single copies of the guideline should be addressed to the Food and Drug Administration, Bureau of Veterinary Medicine, Industry Information Branch (HFV-226), 5600 Fishers Lane, Rockville, Md. 20857. A copy of the labeling guideline is on file in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

¹"The Pharmacological Basis of Therapeutics," 4th Ed., edited by Goodman, L. S. and A. Gilman, The Macmillan Co., New York, p. 466, 1970.

Any interested person may submit written comments on the guideline. Such comments will be considered in determining whether further amendments to the guideline are warranted. Two copies of any comments are to be sent to the Hearing Clerk, Food and Drug Administration, for inclusion in the public file; and an additional two copies are to be sent to Leonard Krinsky, HFV-216 (addressed given above).

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6414 Filed 3-13-78; 8:45 am]

[4110-03]

[Docket No. 75N-03041]

ORAL CONTRACEPTIVE DRUG PRODUCTS

Physician and Patient Labeling; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document corrects for editorial clarity the text of physician and patient labeling for oral contraceptive drug products which appeared in a notice published in the FEDERAL REGISTER of January 31, 1978.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HRD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: The following corrections are made to the notice containing revised physician and patient labeling for oral contraceptive drug products which appeared in FR Doc. 78-2301 at page 4223 in the FEDERAL REGISTER of January 31, 1978:

On page 4224, in the right column, under the heading "Dose-Related Risk of Thromboembolism From Oral Contraceptives" the sentence that reads "It is recommended that new acceptors of oral contraceptives be started on preparations containing 0.5mg or less of estrogen" should read "It is recommended that new acceptors of oral contraceptives be started on preparations containing 0.05mg or less of estrogen."

On pages 4224 and 4225, the first two paragraphs under the heading "Warnings" should be placed in a box, and the first paragraph should be set in boldface type.

On page 4228 in the right column, the portion of the numbered para-

¹Jones, L. M. et al., "Veterinary Pharmacology and Therapeutics," 4th Ed., Iowa State University Press, p. 1052.

graph 10b which reads "Increased prothrombin and factors VII, VIII, IX, and I," should read "Increased prothrombin and factors VII, VIII, IX, and X;"

On page 4229, in the left column, the phrase that reads "Nausea, usually the most common adverse reaction" should be deleted. The next sentence, which reads "Vomiting, occurs in approximately 10 percent or less of patients during the first cycle" should read "Nausea and/or vomiting, usually the most common adverse reactions, occur in approximately 10 percent or less of patients during the first cycle."

On page 4230, in the center column, the first paragraph under the title "Brief Summary Patient Package Insert" should be placed in a box.

On page 4231, in the left column, under the heading "Who Should Not Use Oral Contraceptives," paragraph C should be placed in a box.

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6416 Filed 3-13-78; 8:45 am]

[4110-03]

RADIOLOGICAL HEALTH ADVISORY COMMITTEES

Request for Nomination for Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for new members for two radiological health advisory committees.

DATE: Nominations must be received by April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

For the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC): Marshall S. Little, Bureau of Radiological Health (HFX-440), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3429.

For the Medical Radiation Advisory Committee (MRAC): Norman C. Telles, Bureau of Radiological Health (HFX-4), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6220.

SUPPLEMENTARY INFORMATION: The Secretary of Health, Education, and Welfare and, by delegation, the Commissioner of Food and Drugs and the Director, Bureau of Radiological

Health, are charged with the administration of those portions of the Public Health Service Act (42 U.S.C. 217a, 263b, 263f) that are designed to protect the public health from hazardous radiation emissions from electronic products.

The Technical Electronic Product Radiation Safety Standards Committee, established by the Secretary under section 358(f)(1)(A) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), must be consulted before the Secretary prescribes any performance standard for electronic product radiation safety.

The Medical Radiation Advisory Committee was established under the name "Medical X-Ray Advisory Committee" on October 31, 1963, under section 222 of the Public Health Service Act (42 U.S.C. 217a). It was renamed the Medical Radiation Advisory Committee on June 25, 1970. The committee advises and consults with the Commissioner on the formulation of policy and development of a coordinated national program relating to application of radiation to obtain maximum diagnostic information and therapeutic benefit per unit of radiation exposure to the public.

NOMINATIONS, DUE DATE, AND ACCOMPANYING INFORMATION

All interested persons are invited to nominate qualified candidates for consideration as members to these two committees. To be considered for either of these two committees, each nomination of a qualified person must be received by April 27, 1978, and be accompanied by a curriculum vitae that states where the nominee may be contacted and provides detailed evidence of nominee qualifications, including current employment and professional affiliations. This information should be sent to the Executive Secretary of the committee for which the person is being nominated. Nominations must also state that the person nominated is aware of the nomination, is interested in becoming involved in the effort, and appears to have no conflict of interest. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning financial holdings, consultancies, and research grants or contracts, to permit evaluation of possible sources of conflict of interest.

The Food and Drug Administration has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female and minority candidates.

Further information on requirements for eligibility for membership on each committee is provided below,

under the description of the respective committee.

The Commissioner requested, in a notice published in the FEDERAL REGISTER of March 4, 1977 (42 FR 12516), nominations of qualified persons to replace members of TEPRSSC and MRAC whose terms expired in 1977. Eligible individuals nominated in response to that publication who did not receive committee appointments will be reconsidered for a period of 2 years thereafter along with new nominations for vacancies. The names and affiliations of those appointed pursuant to the March 4, 1977 request for nominations follow:

New members on the TEPRSSC are:

(1) *Public sector.* Dr. Edwin L. Carstensen, Professor, Department of Electrical Engineering, University of Rochester, Rochester, N.Y.; and Mr. Kenneth R. Edwards, Director, Skill Improvement Training, International Brotherhood of Electrical Workers, Washington, D.C.

(2) *Industrial sector.* Mr. Stanley D. Savic, Director, Product Evaluation and Compliance, Zenith Radio Corp., Glenview, Ill.

(3) *Government.* Mr. Elmer H. Eisenhower, Chief, Office of Radiation Measurement, Center for Radiation Research, National Bureau of Standards, Washington, D.C.; and Mr. Charles M. Hardin, Manager, Radiation Control Branch, Consumer Health Protection, Bureau for Health Services, Department for Human Resources, Frankfort, Ky.

TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE

Since its inception in 1969, the TEPRSSC has provided valuable technical and scientific advice to the Bureau of Radiological Health, Food and Drug Administration, on the development of electronic product radiation safety performance standards. Thus far, regulatory performance standards have been issued under 21 CFR Chapter I, Subchapter J, for television receivers, cold-cathode gas discharge tubes, microwave ovens, diagnostic x-ray systems and their major components, cabinet x-ray equipment (including x-ray baggage inspection devices for use at airports and similar facilities), laser products, and ultrasound therapy equipment. A standard has recently been proposed for sunlamp products. The committee meets approximately twice each year and occasionally reviews documents transmitted by mail.

Other electronic products for which performance standards may be issued in the future include equipment used for microwave diathermy, and other forms of radiation therapy, and general area, commercial and industrial illumination.

Under section 358(f) of the act, members will be appointed by the

Commissioner after consultation with public and private agencies concerned with the technical aspect of electronic product radiation safety. Each member shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. As required by the act, the committee is composed of 15 members selected as follows:

1. Five from governmental agencies including State and Federal governments;

2. Five from the affected industry, after consultation with industry representatives; and

3. Five from the general public, of which at least one shall be representative of organized labor. The representative of organized labor must also be technically qualified by education or experience in one or more fields of electronic product radiation safety.

Effective December 31, 1978, two members from industry, one member from the public sector, and two members from the governmental sector will complete their terms and may be replaced.

Nominations are solicited for engineers or scientist qualified in electronic product radiation safety to fill these vacancies for a 4-year term. Nominations are invited from consumer, industry, governments, and professional organizations, and should be sent with accompanying curriculum vitae and other pertinent information to Mr. Marshall S. Little, Executive Secretary.

MEDICAL RADIATION ADVISORY COMMITTEE

MRAC meets approximately twice each year and has provided advice to the Bureau of Radiological Health, Food and Drug Administration, on programs related to medical and dental use of X-ray equipment, training of medical radiation users, nuclear medicine, and the development of policy statements on the effective use of medical radiation.

Among its current activities, the committee reviews qualifications of operators of X-ray equipment; reviews radiological training programs; advises on equipment requirements, guidelines, and standards; and considers efficacy in relation to the reduction of unnecessary radiological examinations.

The committee consists of 13 members, including the chairperson. Members are selected and the chairperson is appointed by the Commissioner from those nominees who have expertise in the fields of medicine, dentistry, health sciences, engineering, public health, and related technology. For

the 1978 membership, the MRAC will have particular need for candidates with knowledge of ultrasound and computerized tomography in medical diagnosis and of laser applications and radiation therapy. Members are invited to serve 4-year terms. Effective July 1, 1978, there will be a total of four vacancies on this committee. Interested persons are invited to submit names of qualified candidates and accompanying curriculum vitae and other pertinent information to Dr. Norman C. Telles, Executive Secretary, MRAC, Food and Drug Administration, Bureau of Radiological Health (HFX-4), 5600 Fishers Lane, Rockville, Md. 20857.

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6418 Filed 3-13-78; 8:45 am]

[4110-03]

SCIENCE ADVISORY BOARD

Request for Nominations for Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for membership on the Science Advisory Board.

DATE: Nominations are requested as soon as possible; however, no cutoff date is established.

ADDRESS: Nominations should be submitted to the Executive Secretary, Science Advisory Board, National Center for Toxicological Research, Jefferson, Ariz. 72079.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, FDA Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration requests nominations for membership on the Science Advisory Board of the National Center for Toxicological Research at Jefferson, Ariz. The Board presently has seven vacancies, and as of June 30, 1978, six additional vacancies will occur.

The function of the Science Advisory Board is to advise the Director, National Center for Toxicological Research, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs

and the Administrator of the Environmental Protection Agency in fulfilling their regulatory responsibilities. The Board provides the extra-agency review to assure that research programs and methodology development at the National Center for Toxicological Research are scientifically sound and pertinent to environmental problems.

The term of office is 3 years. Members shall have diversified experience in biomedical research and shall be recognized experts in at least one discipline directly related to carcinogenesis, mutagenesis, or teratogenesis. Current needs are in mutagenesis, teratology, endocrinology, pharmacology, tissue culture, and aromatic amines.

The Food and Drug Administration has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female and minority candidates.

Any interested person may nominate one or more qualified persons for membership. A complete curriculum vitae of the nominee shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the committee, and appears to have no conflict of interest. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning financial holdings, consultancies, and research grants or contracts, to permit evaluation of possible sources of conflict of interest.

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6415 Filed 3-13-78; 8:45 am]

[4110-03]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA

regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Dermatology Advisory Committee.	Apr. 6, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 to 10 a.m.; open committee discussion 10 a.m. to adjournment; Mary Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee.
Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dermatology.

Agenda—open public hearing. any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of labeling for Psoralen plus ultraviolet A light (PUVA) and guidelines for topical corticosteroids.

Committee name	Date, time, and place	Type of meeting and contact person
2. Allergenic Extracts Panel.	Apr. 7 and 8, 9 a.m., Room 719, Rockwall Bldg., 11400 Rockville Pike, Rockville, Md.	Open public hearing Apr. 7, 9 to 10 a.m.; open committee discussion Apr. 7, 10 a.m. to 5:30 p.m.; Apr. 8, 8:30 a.m. to adjournment; Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee.
Reviews and evaluates available data concerning the safety and efficacy of biological products.

Agenda—open public hearing. any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Committee name	Date, time, and place	Type of meeting and contact person
3. Ophthalmic Panel	Apr. 7 and 8, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., (Apr. 7), Holiday Inn, Bethesda, Md. (Apr. 8).	Open public hearing Apr. 7, 9 to 10 a.m.; open committee discussion Apr. 7, 10 a.m. to 4:30 p.m.; Apr. 8, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4980.

General function of the committee.
Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before April 4, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names

Committee name	Date, time, and place	Type of meeting and contact person
4. Antimicrobial Panel	Apr. 14 and 15, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (Apr. 14), Holiday Inn, Bethesda, Md. (Apr. 15).	Open public hearing Apr. 14, 9 to 10 a.m.; open committee discussion Apr. 14, 10 a.m. to 4:30 p.m.; Apr. 15, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4980.

General function of the committee.
Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before April 11, 1978, and submit a brief statement of the general nature of the data, information, or

views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentations.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).
The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
5. Pulmonary-Allergy Drugs Advisory Committee.	Apr. 17, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; I. David Wolfson (HFD-180), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

and addresses of proposed participants, and an indication of the approximate time desired for their presentations.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. FDA action report, with a special report concerning actions regarding Beta-Agonists (leiomyma) by the FDA staff; report of the findings of the special subcommittee asked to conduct a review of current data and the state of the art to develop guidelines for the standardization and interpretation of

flow-volume loops in children. This report will concern the findings of the meeting of the subcommittee held in Denver, Colo., on March 14, 1978. Discussion of NDA 17-366 Mucomyst-Iso; the committee will undertake a benefit/risk assessment of Mucomyst-Iso. Presentations will be made by the drug sponsor and FDA staff. Discussion of NDA-573 Vanceryl Oral Inhaler; the committee will be asked to reconsider its Phase IV requirement requiring the sponsor to collect autopsy data from patients who were known to have been treated with Vanceryl Oral Inhalation Therapy. The committee will be asked to evaluate the current requirements for premarketing tolerance studies as they relate to bronchodilator drugs when new routes of administration are proposed for drugs with approved new drug applications.

7. Dialysis Subcommittee of the Gastroenterology and Urology Device Classification Panel. Open public hearing 9:30 to 10:30 a.m.; open committee discussion 10:30 a.m. to 3 p.m.; Dennis J. Cotter (HFK-430), 5787 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of gastroenterological and urological devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by April 10, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. The Dialysis Subcommittee in conjunction

8. Neurological Device Classification Panel. Open public hearing 9 to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; James R. Veale (HFK-430), 5787 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the clas-

ification of neurological devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by April 10, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed par-

names and addresses of proposed participants, and an indication of the approximate time desired for their presentations.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

8. Topical Analgesic Panel. Open public hearing Apr. 18, 9 to 10 a.m.; open committee discussion Apr. 18, 10 a.m. to 4:30 p.m.; Apr. 19, 9 a.m. to 4:30 p.m.; Lee Gelsmar (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before April 13, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the

ticipants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. The panel will discuss the proposed classi-

fication regulations for neurological devices. The FDA will explain the reviewing premarket approval applicational responsibility of the panel in relations.

Committee name	Date, time, and place	Type of meeting and contact person
9. Dentifrices and Dental Care Panel.	Apr. 26 and 27, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Apr. 26, 9 to 10 a.m.; open committee discussion Apr. 26, 10 a.m. to 4:30 p.m.; Apr. 27, 9 a.m. to 4:30 p.m.; Thomas D. DeCillis (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before April 21, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names

and addresses of proposed participants, and an indication of the approximate time desired for their presentations.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
10. Contraceptives and Other Vaginal Drug Products Panel.	Apr. 28 and 29, 9 a.m., Conference Room G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (Apr. 28), Holiday Inn, Bethesda, Md. (Apr. 29).	Open public hearing Apr. 28 9 a.m. to 4:30 p.m., Apr. 29, 9 a.m. to 12 a.m.; open committee discussion Apr. 29, 12 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Symposium on the use-effectiveness of the barrier and other methods of contraception. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those who desire to make such a presentation should notify the contact person before April 25, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentations.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting should inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion; if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR part 14.

Dated: March 7, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 78-6527 Filed 3-13-78; 8:45 am]

[4110-03]

[Docket No. 77N-0375; DESI 5597]

ETHOHEPTAZINE CITRATE; ETHOHEPTAZINE CITRATE WITH ASPIRIN; WITH ASPIRIN, PHENACETIN, AND CAFFEINE; AND WITH MEPROBAMATE AND ASPIRIN

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: This notice reclassifies certain analgesic drugs containing ethoheptazine citrate to lacking substantial evidence of effectiveness and offers an opportunity for a hearing on the proposal to withdraw approval of the new drug applications.

DATE: Hearing requests due on or before April 13, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference

number DESI 5597, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for Hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION:

The National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS/NRC) evaluated the effectiveness of three drug products described below, found the drugs to be less than effective, and submitted its report to the Commissioner of Food and Drugs. Copies of that report have previously been made publicly available and are on display at the office of the Hearing Clerk. After reviewing the Academy's report and the available data and information, the Commissioner concluded that the drugs are less than effective and, in the FEDERAL REGISTER of January 10, 1970 (35 FR 396), announced his conclusion that the combination drug containing ethoheptazine citrate, meprobamate, and aspirin lacks substantial evidence of effectiveness for certain indications and that all three drugs are possibly effective for their other labeled indications.

1. NDA 10-101; Zactane Tablets containing 75 milligrams ethoheptazine citrate per tablet; Wyeth Laboratories, Division of American Home Products Corp.; P.O. Box 8299, Philadelphia, Pa. 19101.

2. NDA 10-894; Zactirin tablets containing 75 milligrams ethoheptazine citrate and 325 milligrams aspirin per tablet; Wyeth Laboratories.

A supplement to NDA 10-894 was approved May 22, 1964, for Zactirin Compound-100 Tablets containing 100 milligrams ethoheptazine citrate, 227 milligrams aspirin, 162 milligrams phenacetin, and 32.4 milligrams caffeine. Although Zactirin Compound-100 was not specifically reviewed by the NAS/NRC, Drug Efficacy Study Group, Wyeth was notified by letter of January 30, 1973, that ethoheptazine products were undergoing extensive review pursuant to the Drug Efficacy Study and that Zactirin Compound-100 was subject to that review.

The information submitted in support of the supplement providing for

Zactirin Compound-100 Tablets has been reviewed. It consists of reports of clinical experience involving a large number of patients (more than 7,000) treated by a large number of physicians (more than 1,000) but is nothing more than a mass of case reports not derived from a controlled clinical trial at all. Such reports fail to comply with any of the specific criteria for an adequate and well-controlled clinical trial (21 CFR 314.111(a)(5)) and cannot provide substantial evidence of effectiveness (21 CFR 314.111(a)(5)(ii)(c)). Since they do not compare results in patients treated with the combination drug Zactirin-100 with results in patients treated with the components of Zactirin-100, such reports cannot possibly supply evidence meeting the requirements for fixed-combination prescription drugs set forth in 21 CFR 300.50.

3. NDA 11-702; that part pertaining to Equagesic Tablets containing 75 milligrams ethoheptazine citrate, 150 milligrams meprobamate, and 250 milligrams aspirin per tablet; Wyeth Laboratories.

A notice proposing to withdraw approval of the new drug application for the combination drug containing ethoheptazine citrate, meprobamate, and aspirin (Equagesic Tablets) was published in the FEDERAL REGISTER of July 10, 1974 (39 FR 25375). The notice had stated that no data in support of the combination product had been submitted. However, it was later determined that data had been submitted and were undergoing review. Accordingly, the notice of opportunity for hearing was rescinded in the FEDERAL REGISTER of September 9, 1974 (39 FR 35270).

A supplement to NDA 11-702 was approved April 22, 1975, for reformulated Equagesic-M tablets, containing 200 milligrams meprobamate and 325 milligrams aspirin. An announcement of the approval was published in the FEDERAL REGISTER of August 19, 1977 (42 FR 41915), allowing for the submission of abbreviated new drug applications.

Pursuant to the January 10, 1970, notice, Wyeth Laboratories submitted the results of clinical studies of Zactane, Zactirin, and Equagesic. Those studies, as well as the published studies reviewed by the NAS/NRC, are discussed in detail below.

ETHOHEPTAZINE CITRATE AS A SINGLE ENTITY (ZACTANE)

Two published reports of controlled studies included ethoheptazine alone as one treatment. These data were taken into consideration by the NAS/NRC Panel on Drugs for Relief of Pain in their evaluation of the effectiveness of ethoheptazine.

1. Cass, et al., (JAMA 166:1829, 1958) found that ethoheptazine 100 milligrams was a more effective analgesic than either aspirin 600 milligrams or

placebo in patients with chronic pain of mixed etiology. The significance of this finding, however, is rendered moot because the work of Cass is not considered acceptable by FDA, since he is a disqualified investigator.

2. Kornfeld and Lasagna (Fed. Proc. 18:382, 1959; Drug Addiction and Narcotics Bulletin, Appendix E, 1978-1989, 1959) found that both 75-milligram and 150-milligram doses of ethoheptazine could scarcely be distinguished from placebo, while aspirin 600 milligrams was clearly superior to placebo in a comparison of the four treatments in patients with post-partum pain.

Wyeth submitted results of seven investigations not reviewed by the NAS/NRC:

1. Winter, et al., compared the effect of ethoheptazine citrate 150 milligrams, propoxyphene hydrochloride 65 milligrams, and placebo in a double-blind, single-treatment study in 671 outpatients who had undergone oral surgical procedures. Patients recorded the amount of pain experienced as severe (3), moderate (2), mild (1), or none (0) before medication and 1, 2, and 3 hours after medication. In the original design of the study, "criteria of effectiveness" were to be rated at 0, 1, 2, and 3 hours after the first and second doses of medication. In spite of the fact that the actual response variable elicited from patients was a graded scale of pain intensity, the sponsor has not presented either the hourly mean scores for pain intensity or the change in pain intensity derived from these graded data, nor has it presented a statistical analysis of these graded data. (21 CFR 314.111(a)(5)(ii)(a)(5).) Instead, the sponsor quantitized the data into categories of success—"any relief" (any decrease in pain intensity after medication) and "complete relief" (zero pain after medication)—and applied statistical analyses to these transformed data to compare the frequency of these two different "successful results" in drug and placebo groups. Based upon this analysis, the sponsor concluded that the study demonstrated that ethoheptazine citrate 150 milligrams is superior to placebo.

There is nothing inherently unsatisfactory about the analysis conducted. A consultant to Wyeth argues, in fact, that numerical pain rating scales invalidly assume a linear scale, i.e., that the difference between 0 and 1 is the same as the difference between 2 and 3 or 1 and 2, and that the "success-failure" analysis is preferable. While this is arguable, and many experts do make use of numerical pain-rating scales, the approach taken by Wyeth could certainly be a valid method of analysis in some circumstances. It must be recognized, however, that the criteria of success chosen by Wyeth as the basis for analysis of the study were chosen

after the study was complete, i.e., with the results in hand. In other words, a study designed with a pain-rating scale was analyzed, after the fact, using an entirely different rating system.

Such a change always raises the question of whether the original analysis did not show the drug effect sought and the new analysis was chosen because it showed a drug effect. The essentials of an adequate and well-controlled study include a requirement that results of treatment be compared with a control and that there must be "an explanation given of the methods used to minimize bias on the part of the observers and the analysts of the data." (21 CFR 314.111(a)(5)(ii)(a)(4).) One way to prevent bias by analysts is to use an analytical method planned before the study, before the results could possibly influence the analysis. The problem of analyst bias has not been addressed at all by Wyeth; it is nevertheless an important question since important decisions have been made in determining how to analyze the data presented and there must be a demonstration that these were made in an unbiased manner.

When used as an exclusive method of analysis, designed wholly after completion of the study, the approach taken by Wyeth is questionable because, obviously, there are many different ways of quantalizing any array of graded data and many different possible criteria for defining success.

It is possible to choose the information to be analyzed in a biased fashion. In the present case, for example, the criterion for success equates a decrease of pain from severe to none (a difference of 3) with a decrease from mild to none (a decrease of 1), changes which may represent quite different levels of success. As will be seen below, analysis by FDA using the original pain scales, as apparently contemplated in the study protocol, shows no difference between ethoheptazine and placebo. The information lost in the Wyeth analysis thus affects the results obtained.

Even if Wyeth's analytic method were accepted, a second serious defect in the way the sponsor analyzed the data lies in the particular comparisons made in the analysis. This defect alone is sufficient to render the analysis incapable of demonstrating the effectiveness of ethoheptazine. Three comparisons among treatment groups were made. The first of these (designated "drugs X realized relief") is evidently a measure of the significance of the differences among all of the three treatments in the study (ethoheptazine, propoxyphene, and placebo); a statistically significant difference among treatments was found. The second measure (designated "active vs. inactive drug") is evidently a comparison

of the ethoheptazine citrate and propoxyphene hydrochloride groups with placebo; again a statistically significant difference was found. In the third comparison, of ethoheptazine citrate with propoxyphene hydrochloride, no difference was found. These comparisons are irrelevant to the issue at hand, however, which is also the issue the studies were supposedly designed to resolve; namely, whether or not ethoheptazine citrate itself has analgesic activity, i.e., whether it is more effective than placebo. Therefore, the appropriate comparison is ethoheptazine citrate vs. placebo and not ethoheptazine citrate and propoxyphene hydrochloride vs. placebo. This latter comparison could give a significant drug vs. placebo difference, but that difference might reside predominantly in the effect of the standard medication (propoxyphene hydrochloride) rather than in the effect of the ethoheptazine citrate. The failure to report the significance of the ethoheptazine-placebo comparison presumably indicates that Wyeth did not find that ethoheptazine had statistically significantly greater activity than the placebo at any time period.

The Food and Drug Administration analyzed the data from Dr. Winter's study using the original patient record forms and the scale of pain intensity developed by Dr. Winter. Mean hourly scores were computed for pain intensity and change in pain intensity, and these were plotted as time-action curves for the three treatments. The curves indicate that the mean scores for ethoheptazine citrate 150 milligrams fall more or less midway between those of propoxyphene hydrochloride and placebo. By summing the hourly scores, a mean total pain intensity and mean total change in pain intensity were computed for each treatment, and the significance of the difference between these means for each treatment was tested by an appropriate analysis of variance. The analysis by FDA agrees with that of the sponsor in showing that there was a significant difference among treatments, but shows that this difference was primarily due to the difference between the standard, propoxyphene hydrochloride, and the placebo. Ethoheptazine 150 milligrams itself was not significantly superior to placebo at the $P=0.05$ level, considering either the parameter of total pain intensity or the parameter of total change in pain intensity. Therefore, this study obviously fails to provide evidence that ethoheptazine citrate is an effective analgesic. It should be noted that this failure to demonstrate effectiveness occurred in a study with a good level of assay sensitivity since it was able to demonstrate the analgesic effectiveness of 65 milligrams of propoxyphene hydrochloride, a dose whose effective-

ness is not demonstrable in some studies.

2. Wang compared the effect of ethoheptazine citrate 150 milligrams, propoxyphene hydrochloride 65 milligrams, and placebo in a double-blind crossover study in patients with chronic pain of varied etiology. Each patient received a medication in the early morning and was evaluated hourly over the next 6 hours. On a subsequent day, the patient received the second of the three medications and on a subsequent day the third. Patients were interviewed hourly for 6 hours after administration of the test medication, and pain intensity was graded as severe (4), moderate (3), mild (2), and none (1). Pain relief was also evaluated, evidently on a scale of 1, 2, 3, 4, and 5, where a score of 1 meant worsened pain, 0 meant no pain relief, and 5 meant complete pain relief. The sponsor concluded that the study demonstrated both clinically and statistically that ethoheptazine and propoxyphene are superior to placebo in the relief of chronic pain, but the two drugs do not differ from one another.

Numerous deficiencies render this a less than adequate and well-controlled trial. It is not clear from the summaries and data presented how the study was actually carried out and the data actually accumulated and recorded. (21 CFR 314.111(a)(5)(ii)(a)(3).) For example, some case report forms are typewritten and clearly are not facsimiles of the original data forms used in the study. There is also a suggestion that the data have been "tidied up"; for example, the recorded times of interview for each patient always fall exactly 60 minutes apart during the course of the 6-hour observation period although, from a practical standpoint, it is unlikely that observations were always made at exact 60-minute intervals. When the reported observation times are compared for different patients on the same day, these frequently coincide exactly although it is obviously impossible for a single observer to record observations from more than one patient at one particular time. It is not recorded in the protocol who actually administered the test drugs and made these observations.

There are several other aspects of the study which are unclear. Details of blinding procedures are not described, so it cannot be determined how bias was minimized on the part of subject and observer. (21 CFR 314.111(a)(5)(ii)(a)(3) and (4).) It is not apparent whether the study was done in only one facility or several. The numbering of patients is confusing and it cannot be determined how patients were assigned to treatments. (21 CFR 314.111(a)(5)(ii)(a)(2)(i).) There are, for example, instances in

which several different patients share the same patient number. There is no record of how many patients actually started on the study in relation to the number of patients completing the three-dose crossover.

In spite of the fact that, as in the Winter study, the actual response variables elicited from the patients were a graded scale of pain intensity and a graded scale of pain relief recorded at hourly intervals after drug administration, the sponsor has not presented hourly mean scores for pain intensity, change in pain intensity, or pain relief derived from these graded data, nor has it presented any statistical analysis of the graded data produced by the study. Instead, like his analysis of the Winter study, the sole analysis has been done by quantalizing the graded data into success and failure categories. The protocol states that success is defined as "complete or moderate relief without additional medication," but it is unclear at what time after administration of medication this judgment is made, and it is unclear whether the pain intensity or the pain relief variable, or some combination of these, was used in determining success. The study is thus obviously deficient in explaining the methods used to analyze data. (21 CFR 314.111(a)(5)(ii)(a)(5).) In addition, the study was not originally designed to be analyzed in this fashion. Such a transformation of the response variables results in a wholesale disregarding of potential information and raises serious questions as to how bias on the part of the analyst has been minimized, as was noted in the discussion of the Winter study above. (21 CFR 314.111(a)(5)(ii)(a)(4).)

The Food and Drug Administration has analyzed the data using the case report forms from Dr. Wang's study. Using the scales of pain intensity and relief devised by Dr. Wang, mean hourly scores were computed for change in pain intensity and pain relief, and these were plotted as time-action curves for the three treatments. By summing the hourly scores, a mean total change in pain intensity and mean total pain relief were computed for each treatment, and the significance of the between-treatment differences of these means was tested by an appropriate analysis of variance. The propoxyphene-placebo difference was somewhat greater than ethoheptazine-placebo difference for total change in pain and was considerably greater for total relief of pain, but none of the treatment differences in the study were statistically significant at the $P=0.05$ level. Therefore, this study can be considered to represent a "no test" situation and cannot provide substantial evidence of the analgesic efficacy of ethoheptazine citrate.

It is of interest that the Wang study illustrates how biases may arise

through selection of arbitrary criteria for success and failure after completion of a study. The Wang study defined success as complete or moderate relief at any time after drug administration and concluded that ethoheptazine was effective. The Winter study (discusses above) selected two different criteria: complete relief of pain and any relief of pain. Applying the Winter study criteria to the Wang study data, we find the following result for the 76 patients studied:

	Ethoheptazine	Propoxyphene	Placebo
Any relief....	80/76	80/76	54/76
Complete relief.	30/76	35/76	32/76

These small differences are not statistically significant.

The Wang study is thus not an adequate and well-controlled study and, in any case, does not show superiority of ethoheptazine over placebo.

3. Grossman compared the effect of ethoheptazine citrate 150 milligrams, propoxyphene hydrochloride 65 milligrams, and placebo in a crossover study, ostensibly double-blind, in outpatients with chronic musculo-skeletal pain primarily due to rheumatoid arthritis and osteoarthritis. Patients were to use each drug four times a day for 1 week, then return for evaluation and the next drug. The sponsor reported that the data showed a trend in favor of ethoheptazine over placebo, but offered no statistical analysis and did not claim that the study constituted substantial evidence that the drug was superior to placebo. Numerous deficiencies render the study less than adequate and well-controlled, and in many respects the data are incomplete or unclear. The summary report indicates that 25 patients entered and completed the study. Inspection of the data sheets, however, suggests that this was not the case. Rather, about 35 patients entered the study and 25 of them completed a crossover. No data sheets are provided for those who did not complete a crossover. It is not clear why the missing patients were omitted and it cannot be determined whether their omission introduced bias. (21 CFR 314.111(a)(5)(ii)(a)(3).) There are numerous instances in which periods greater than 1 week elapsed between office visits, and it is not clear whether patients had adequate test medication to span some of these intervals or whether they took nonstudy drugs under these circumstances. (21 CFR 314.111(a)(5)(ii)(a)(2)(iii).) If other analgesic drugs were taken, there would need to be assurance that their use was comparable during all three treatment periods. This was not shown. (21 CFR

314.111(a)(5)(ii)(a)(2)(iii).) A critical design defect was the use of only three of the possible six treatment sequences. Thus, patients receiving ethoheptazine citrate first always received propoxyphene hydrochloride second and placebo third. Likewise, patients who received placebo first always received ethoheptazine citrate second and never propoxyphene hydrochloride second. This type of allocation of treatment to patients poses a serious risk of introducing bias due to order effects and represents a further failure to assure comparability of groups with respect to a pertinent variable. (21 CFR 314.111(a)(5)(ii)(a)(2)(iii).)

Data were analyzed using an elaborate transformation of graded weekly degree of relief into relative superiority scores, giving one point to the agent giving best relief, $\frac{1}{2}$ point to any two agents superior to the third, and $\frac{1}{3}$ point when all three agents were the same. The rationale for this analysis was not provided. (21 CFR 314.111(a)(5)(ii)(a)(3).) In addition, no statistical analysis is presented. (21 CFR 314.111(a)(5)(ii)(a)(5).) As noted, the sponsor did not claim that the study provides substantial evidence of effectiveness. The Director of the Bureau of Drugs concludes that the study is not an adequate and well-controlled study and that, despite a trend in favor of the drug over placebo, it cannot provide substantial evidence of effectiveness for ethoheptazine.

4. Spitzer compared ethoheptazine citrate 150 milligrams, propoxyphene hydrochloride 65 milligrams, and placebo in outpatients with chronic pain of mixed etiology, primarily due to osteoarthritis, using a design and analysis similar to Grossman. Of the 40 patients who entered the study, 38 completed the crossover. The study shares the faults cited above as rendering the Grossman study less than adequate and well-controlled. In addition, the sponsor's statistical analysis of the transformed data revealed "no significant differences in superiority in imparting relief among the drugs." The study thus does not provide substantial evidence of effectiveness of ethoheptazine citrate.

5. McMahon, et al., compared the effect of ethoheptazine citrate 150 milligrams, propoxyphene hydrochloride 65 milligrams, and placebo in a crossover study in patients with chronic musculo-skeletal pain, using a design similar to the Grossman and Spitzer studies, except that each medication was taken only 5 days, followed by a 2-day washout period. Evaluation was made weekly and the criteria of effectiveness and analysis were similar to those of the Grossman and Spitzer studies except that patients with the same degree of relief from all three therapies were dropped from the analysis. Neither this measurement of

effect nor four other methods of defining success and failure explored by the sponsor yielded any significant difference among therapies or even any trend in favor of ethoheptazine. The study thus represents a "no test" situation and does not provide substantial evidence of effectiveness.

6. Batterman carried out a study of general design similar to Grossman and Spitzer, comparing ethoheptazine citrate 150 milligrams, propoxyphene hydrochloride 65 milligrams, and placebo in 21 outpatients with chronic pain secondary to osteoarthritis or quiescent rheumatoid arthritis. It was terminated prior to completion, according to the sponsor, because of the "large number of drop-outs and inconsistent concomitant therapy during the study." In addition to questions related to concomitant therapy (21 CFR 314.111(a)(5)(ii)(a) (2)(iii)), the method of assigning treatments to patients is unclear. (21 CFR 314.111(a)(5)(ii)(a)(2)(ii).) Analysis of data was similar to previous studies, but the sponsor stated that "the study does not lend itself to statistical analysis because of its incompleteness and the small number of patients." The study does not provide substantial evidence of effectiveness of ethoheptazine citrate as an analgesic.

7. Kantor compared propoxyphene hydrochloride 65 and 130 milligrams, ethoheptazine citrate 75, 150, and 300 milligrams, and placebo on a single-dose basis in inpatients with pain of mixed etiology. Pain severity was rated on a scale from 0 to 3, while pain relief was evaluated by asking the patient whether he had obtained at least 50 percent relief of the initial pain level. The sponsor analyzed the data by quantalizing it using various criteria for success and failure at each interval after drug administration and found no statistically significant difference between any of the drug treatments and the placebo. Using an analysis of variance on the original graded data and graded scores summed over the 6-hour observation period, Dr. Kantor was likewise unable to demonstrate a significant difference among treatments. From the dose-response curves for the various measures of analgesic effect presented by Dr. Kantor, there is a consistent trend to a positive dose-response regression for propoxyphene hydrochloride with no such consistent trend demonstrated for ethoheptazine citrate. The study is thus a "no test" situation, although it demonstrates a trend toward effectiveness for propoxyphene but no such trend for ethoheptazine. It plainly provides no substantial evidence of effectiveness of ethoheptazine.

Thus, Wyeth has submitted reports of seven studies that were not reviewed by the NAS/NRC comparing ethoheptazine with a placebo. Five of

them (Grossman, Spitzer, McMahon, Batterman, and Kantor) fail, according to the sponsor, to demonstrate analgesic effectiveness for ethoheptazine. The sixth study, that of Wang, fails to provide adequate information regarding the methods of observation and recording of results (21 CFR 314.111(a)(5)(ii)(a)(3)), regarding the assignment of patients to treatment groups (21 CFR 314.111(a)(5)(ii)(a)(2)(ii)), and regarding the methodology and rationale of the statistical analysis (21 CFR 314.111(a)(5)(ii)(a)(5)). In addition, a method of analysis was used which was developed after the study was completed, i.e., with full knowledge of the results. This analysis utilizes arbitrarily chosen quantalizations of the data generated in the study and disregards certain other data. When all of the data generated are analyzed, or when the quantalization used in analyzing a different submitted study (Winter) is used, no significant difference is found between ethoheptazine and placebo. Despite the obvious influence of the analytical method on the results, no justification is provided for the particular quantalization chosen and no discussion of results using alternative methods is provided. No explanation is given, as required under (21 CFR 314.111(a)(5)(ii)(a)(4), of how bias on the part of the analyst of the data was avoided.

The seventh study was properly designed and conducted except with respect to the analysis of data, a crucial exception. Again, an arbitrary method of analysis, developed after completion of the study and different from the analysis originally contemplated by the study designer, was used without justification. Analysis by FDA of all the data generated, including that discarded by the Wyeth analysis, revealed no significant difference between ethoheptazine and placebo, although it did reveal a significant difference between propoxyphene and placebo. The studies submitted thus do not include a single adequate and well-controlled clinical trial demonstrating analgesic effectiveness of ethoheptazine.

ETHOHEPTAZINE CITRATE 75 MILLIGRAMS IN COMBINATION WITH ASPIRIN (ZACTIRIN)

A number of published and unpublished clinical trials compared the combination drug Zactirin (ethoheptazine citrate 75 milligrams and aspirin 325 milligrams) with aspirin alone. This kind of study is intended to fulfill the requirements of the FDA combination drug policy (21 CFR 300.50), which requires that each component of a combination drug product contribute to the claimed effect—in this case, analgesia. Such contribution would be demonstrated if the combination were

shown to be a more effective analgesic than aspirin or ethoheptazine alone, given at the same dose as in the combination. It should be emphasized that a mere finding that the combination drug is more effective than a placebo is irrelevant to this issue, since the effectiveness could be entirely attributable to the content of aspirin, a drug well known to be effective. Five published reports reviewed by the NAS/NRC were considered not to provide evidence of the contribution of ethoheptazine.

Cass, et al., conducted two studies (*JAMA* 166:1829-1833, 1958; *Can. Med. Assoc. J.* 83:831-836, 1960) comparing Zactirin with aspirin and with placebo. The work of Cass, however, is not considered acceptable by FDA, since he is a disqualified investigator.

Brennan (*J. Am. Dent. Assoc.* 67:23-27; 1963), Bruni and Holt (*Obstet. Gynecol.* 25:76-81, 1965), and Lasagna and Dekornfeld ("Studies on Analgesic and Hypnotic Drugs" in National Academy of Sciences Committee on Drug Addiction and Narcotics' minutes of the 21st meeting, Washington, D.C., National Academy of Sciences, National Research Council, division of Medical Science, 2145-2158 (Appendix 1) 1960) conducted studies of different design, all of which showed Zactirin and aspirin to be effective, but also found no significant difference between Zactirin and aspirin. They thus failed to demonstrate any contribution of the ethoheptazine component of Zactirin and failed to fulfill the requirements of 21 CFR 300.50.

Six unpublished studies were submitted comparing Zactirin with aspirin and with placebo (Winter, Kast, Lamphier, Diamond, Sechzer, and Friedman). They were all double-blind and included both cross-over and parallel designs, both single treatment and longer-term (1 week) treatment, and various rating scales. The studies of Diamond and Friedman, according to the sponsor, showed no difference between "active drugs" and placebo and thus represented a "no test" situation. The studies of Winter and Kast all showed that Zactirin and aspirin were significantly more effective than placebo, but were not statistically significantly different from each other. The Winter and Kast studies slightly favored aspirin over Zactirin. These four studies, by the sponsor's own analysis, with which FDA concurs, cannot on their face provide any evidence of effectiveness for ethoheptazine alone or for ethoheptazine's contribution to the analgesic effect of Zactirin. The studies, in addition, share the faults of the ethoheptazine studies discussed earlier, namely, arbitrary rating scales and questionable statistical analysis.

The Lamphier study was a double-blind, parallel-group trial comparing Zactirin, aspirin, and placebo in inpa-

tients who had undergone surgery or who had nonarthritic musculo-skeletal pain. Repeated doses of each medication were given, if needed, every 3 hours for a total of eight tablets. Pain and degree of pain relief were assessed 3 hours after each dose, and several criteria of success were used: complete relief, 50 percent relief, any relief. Comparisons among the drugs were made for each success criterion and for each medication dose, as well as for all medication doses. No explanation is provided of why the analysis considers each dose separately rather than total pain relief for all doses. (21 CFR 314.111(a)(5)(ii)(a)(5).) In most of these dose-by-dose comparisons, active drugs were statistically significantly superior to placebo, but active drugs did not differ significantly, with a single exception. At a single observation point, using a single measurement of effectiveness (50 percent relief) Zactirin was significantly superior to aspirin. When numerous comparisons of this kind are made, chance alone will result in an occasional "significant" result (just as some of the comparisons failed by chance to show that the active drugs were significantly superior to placebo, even though the overall results of the study show that they were). In the present case, the three success criteria and eight observation periods yield 24 such comparisons. Without analysis showing that this isolated finding is reproducible and meaningful, i.e., that ethoheptazine at one, and only one, time period somehow helps produce 50 percent or greater relief of pain without affecting "any relief" or "complete relief," the isolated finding provides no evidence at all of ethoheptazine's analgesic effect. Analysis of the data from the entire study, that is, a comparison of pain relief by any of the three criteria over the entire observation period of the study, shows no significant difference between Zactirin and aspirin.

The Sechzer study was a double-blind, single-treatment comparison of Zactirin with aspirin 325 milligrams and with placebo in patients with post-operative pain. An interim report stated that the study was terminated after 32 patients because of the "high incidence of concomitant therapy." A later report stated, however, that the investigator elected to continue the trial and studied 33 more patients. The study administered one of the three treatments on a random basis. If relief was not satisfactory after 2 hours, a second medication was given: Zactirin for patients initially given Zactirin, and aspirin for patients previously given aspirin or placebo. Since a minority of patients received a second dose, only the initial dose results are discussed. Pain relief was measured in graded fashion (pain completely gone, marked improvement, moderate im-

provement, slight improvement, or no improvement) at five different times ($\frac{1}{2}$, 1, 2, 3, 4 hours); in analyzing data, however, the sponsor arbitrarily and wholly without explanation, quantalized the data after the study was complete into effective (marked or complete relief) and ineffective (no, slight, or moderate relief) therapy. As with the Winter and Wang studies of ethoheptazine vs. placebo, this study is not an adequate and well-controlled trial because no explanation of the choice of analytical method was provided, as is required under 21 CFR (314.111(a)(5)(ii)(a)(5), and no explanation of how bias was avoided by the analyst in selecting this after-the-fact analytical method was offered. (21 CFR 314.111(a)(5)(ii)(a)(4).) Such arbitrary analyses, which ignore the total information provided and, after the fact, select certain comparisons while avoiding others, were discussed in detail earlier. Using these after-the-fact success criteria, comparisons were made for each time of observation; no significant differences were seen at $\frac{1}{2}$, 1, or 2 hours, but at the third hour Zactirin was significantly more effective than aspirin. This difference disappeared by the fourth hour. Such isolated findings have been discussed above. Evaluation of the total relief provided by each treatment over the entire time of observation and comparison of the number of patients needing a second dose of medication revealed no difference between Zactirin and aspirin. The Sechzer study is thus not an adequate and well-controlled study in that it fails to explain its analytical methods. In any event, superiority at one observation point out of five for only one arbitrary criterion of success could not constitute substantial evidence of effectiveness, as such a result could readily arise due to chance alone.

The six unpublished studies comparing Zactirin with aspirin and with placebo thus fail to provide substantial evidence that ethoheptazine contributes to the analgesic effect of Zactirin.

Two unpublished studies were submitted comparing Zactirin with Darvon Compound 65, and with placebo. Silk and Winter, in studies of roughly the same design, compared two tablets of Zactirin (a total of 150 milligrams of ethoheptazine and 650 milligrams of aspirin) with Darvon Compound 65 (65 milligrams of propoxyphene, 227 milligrams of aspirin, and 162 milligrams of phenacetin) and placebo. Although it was claimed that these studies were "double-blind," it is stated in the protocol that the Zactirin and placebo were supplied in the form of "two tablets," while the Darvon Compound 65 was supplied in the form of "one capsule." Since one capsule does not look like two tablets, it is unclear how such a study could be

double-blind or have minimized patient and observer bias. (21 CFR 314.111(a)(5)(ii)(a)(3) and (4).) Both studies showed the active drugs superior to placebo, at least when one considers certain initial pain intensities and certain parameters of analgesic effect. The two active drugs were not shown to be different from each other. Even if the studies were adequate and well-controlled, they cannot possibly provide evidence bearing on the contribution of ethoheptazine to the Zactirin combination. (21 CFR 300.50.) Presumably, the theory behind these trials is that if Zactirin and Darvon Compound 65 are equally effective, that would constitute evidence that ethoheptazine and propoxyphene (an effective drug) are making the same additional analgesic contribution in both drugs; thus since propoxyphene hydrochloride is effective, ethoheptazine is effective also. This theory might hold if certain conditions were met. The first and most obvious condition is that the components in each combination, other than ethoheptazine, be identical with respect to analgesic potency. Since two tablets of Zactirin contain 650 milligrams of aspirin while one capsule of Darvon Compound 65 contains 227 milligrams of aspirin and 162 milligrams of phenacetin, this condition is self-evidently not met. This failure alone is sufficient to render the studies incapable of demonstrating the contribution of ethoheptazine.

The second condition is that it be demonstrated that the study could detect a difference between the contributions of ethoheptazine and propoxyphene if one existed. Even if the comparison drugs did have non-ethoheptazine components with equal analgesic potency, a mere failure to show a difference between the combinations could represent either lack of sensitivity of the study or a true equality of contribution of the ethoheptazine and propoxyphene. It is therefore necessary to include an aspirin group to show that the contribution of propoxyphene can be detected and to assess the power of the study, i.e., how great a difference between propoxyphene and ethoheptazine could be missed at the $P=0.05$ level.

ETHOHEPTAZINE CITRATE 150 MILLIGRAMS IN COMBINATION WITH ASPIRIN 325 MILLIGRAMS (MODIFIED ZACTIRIN—DESIGNATED ZACTIRIN-M)

Several studies have utilized a new, unmarketed combination designated Zactirin-M, containing 150 milligrams ethoheptazine and 325 milligrams aspirin. It must be recognized at the outset that such studies can have no direct impact on any of the currently marketed products.

1. Winter compared Zactirin-M with aspirin 650 milligrams in a double-

blind study in approximately 265 outpatients requiring medication for pain following various oral surgical procedures. Various statistical analyses of the resulting data uniformly failed to demonstrate a statistically significant difference between the two treatments and the sponsor concluded that 325 milligrams of aspirin and 150 milligrams of ethoheptazine are approximately equivalent. However, the issue at present is whether 150 milligrams of ethoheptazine citrate enhances the analgesic effect of 65 milligrams of aspirin (two tablets of Zactirin). By its very design, this study cannot answer that question because it does not compare 650 milligrams of aspirin with the same amount of aspirin plus 150 milligrams ethoheptazine citrate. It therefore could not possibly provide substantial evidence of effectiveness for the fixed-combination Zactirin (21 CFR 300.50). Moreover, the study contains no measure of assay sensitivity (such as comparison with a placebo) and no assessment of the power of the study to detect a difference between aspirin and ethoheptazine if one existed, both of which are needed to reach any conclusion as to the meaning of not finding a statistically significant difference between the two treatments (see discussion of the Zactirin-Darvon Compound 65 comparisons above).

2. Lamphier compared Zactirin-M, aspirin 325 milligrams, and placebo in a crossover study involving 117 hospitalized patients with acute musculoskeletal pain; all 117 patients completed all three treatments in the crossover. While some of the analyses of the data deal with inappropriate comparisons (e.g., Zactirin-M versus the combined scores for aspirin and placebo), some seem to show a significant superiority of one tablet of Zactirin-M over aspirin 325 milligrams. While this study may provide some evidence that ethoheptazine is not entirely inert, and that a tablet with 150 milligrams of it in addition to 325 milligrams of aspirin is superior to the 325 milligrams of aspirin alone, it does not show that ethoheptazine makes a contribution to the effect of the marketed Zactirin product. The appropriate comparison to show that that product is effective according to the requirements of 21 CFR 300.50 is of Zactirin vs. its components, 325 milligrams aspirin and 75 milligrams ethoheptazine. Alternatively two tablets of Zactirin could be compared with 150 milligrams ethoheptazine and 650 milligrams aspirin. Neither of these is the comparison conducted by Lamphier. There is no way to conclude that each of the components of Zactirin would contribute to its effect except to study them in the same proportions that they represent in Zactirin.

3. Diamond compared Zactirin-M, aspirin 325 milligrams, and placebo in

outpatients with tension headaches. The study was projected for 150 patients; however, the data submitted were only from the first 106 patients. Using certain criteria of effectiveness in certain subgroups of patients, the active therapies are significantly superior to placebo and there is a trend in favor of Zactirin-M over aspirin. However, even if this trend were to develop into a significant superiority of Zactirin-M over aspirin on the addition of further patients to the study, for the reasons described above in relation to the Lamphier study, the study could not support the effectiveness of Zactirin according to 21 CFR 300.50.

ETHOHEPTAZINE CITRATE 75 MILLIGRAMS IN COMBINATION WITH ASPIRIN 250 MILLIGRAMS AND MEPROBAMATE 150 MILLIGRAMS (EQUAGESIC)

The NAS/NRC Panel found a lack of substantial evidence for the contribution of either the ethoheptazine or the meprobamate components of Equagesic to analgesic effectiveness. Wyeth chose to conduct studies designed to demonstrate the effectiveness of Equagesic and, in addition, to conduct studies on a modified Equagesic formulation, Equagesic-M (meprobamate 300 milligrams plus aspirin 325 milligrams).

The studies on Equagesic-M were adequate to demonstrate that the addition of meprobamate both enhance the analgesic effect of aspirin and provided relief of anxiety/tension greater than that provided by aspirin alone in patients suffering from certain musculoskeletal complaints. The existence of substantial evidence of the effectiveness of a combination of meprobamate and aspirin was acknowledged in the July 10, 1974 notice. This product was approved on April 22, 1975, through the supplemental new drug application procedures. A notice published in the FEDERAL REGISTER of August 19, 1977 (42 FR 41915), stated the conditions for marketing the product and allowed for the submission of abbreviated new drug applications.

Proof of the efficacy of Equagesic would require well-controlled analgesic studies providing substantial evidence that both ethoheptazine and meprobamate, as well as aspirin, contribute to the analgesic activity of the combination. Studies of the meprobamate-aspirin combination have shown that the combination of 400 milligrams of meprobamate and 650 milligrams aspirin produces more pain relief than 650 milligrams aspirin alone in patients with certain musculo-skeletal conditions. In addition, these studies provide evidence that the addition of meprobamate relieves various manifestations of tension which occur in this group of patients better than aspirin alone. The contribution of ethoheptazine to the combination, however, remains to be demonstrated.

Nine studies, utilizing several study designs were provided to demonstrate that ethoheptazine contributed to the effectiveness of Equagesic.

Eight studies compared Equagesic, an aspirin-ethoheptazine combination, and meprobamate. It should be recognized at the outset that while such studies are capable of demonstrating that meprobamate or the ethoheptazine-aspirin combination contribute to the effect of the combination (this would be shown if Equagesic were superior to the other two treatments), these studies cannot possibly show the contribution of ethoheptazine since ethoheptazine is always accompanied by aspirin and the contribution of each cannot be assessed.

Four of the studies were of similar design (Gilbert, Silberman, Winkelman, and Weinsaft) and were conducted in outpatients with painful musculoskeletal disorders of various kinds complicated by anxiety/tension states. Drugs were administered repeatedly for 3 to 7 days and various measures of both pain relief and anxiety/tension parameters were made. These studies compared two-tablet doses of the following four treatments, administered three or four times a day: (1) Equagesic (aspirin 250 milligrams plus ethoheptazine 75 milligrams plus meprobamate 150 milligrams); (2) aspirin 250 milligrams plus ethoheptazine 75 milligrams; (3) meprobamate 150 milligrams; and (4) placebo. The Weinsaft study proved to be a "no test" situation. The other three studies, however, all showed a significant analgesic effect for the aspirin-containing combinations and various significant effects on anxiety/tension parameters for meprobamate and Equagesic. As noted, none of these studies speaks to the issue of whether the ethoheptazine contributed to the analgesic effectiveness of the combination.

The other four studies were of various designs (Scheiner, Wang, de Sola Pool, and Winter) and also compared Equagesic, aspirin plus ethoheptazine, and meprobamate, but did not include a placebo. Three of the studies, Wang, de Sola Pool, and Winter, according to the sponsor, demonstrated that analgesic effectiveness of both Equagesic and ethoheptazine-aspirin was greater than that of meprobamate but did not show significant differences between Equagesic and ethoheptazine-aspirin for relief of pain. Thus they do not demonstrate analgesic effectiveness for meprobamate and, as noted, were not designed to demonstrate effectiveness of the ethoheptazine component.

Scheiner compared single two-tablet doses of Equagesic, aspirin 250 milligrams plus ethoheptazine 75 milligrams, and meprobamate 150 milligrams in a crossover study of 99 outpatients with pain due to lumbar strain complicated by anxiety/tension. Only

patients who were not "placebo reactors," as determined by the fact that they did not receive complete relief of either pain or anxiety/tension after an initial dose of placebo, were supposed to be included in the study, but it is not clear from the protocol how many, if any, patients were excluded on these grounds. On the basis of various statistical tests, it was concluded that Equagesic was significantly more effective than either of the other two therapies for the relief of pain, and that both Equagesic and meprobamate were more effective for the relief of anxiety than the combination of aspirin plus ethoheptazine. The study provides evidence of the contribution of meprobamate to the analgesic effect of the Equagesic formulation in relieving pain and anxiety/tension in patients with certain acute musculo-skeletal conditions. Like the others, however, it is not relevant to the question at issue, namely, whether ethoheptazine itself makes such a contribution.

Only one study submitted was designed to examine the contribution of ethoheptazine to the analgesic effectiveness of Equagesic. Winter compared single two-tablet doses of Equagesic, a combination of 150 milligrams of meprobamate and 250 milligrams of aspirin, and placebo in outpatients with various types of headache. A report card was used to record the base-line intensity of the pain as mild, moderate, or severe and to record the relief from the medication as none, partial, or complete at 1, 2, and 3 hours after administration of the test medications. The study was reported as being double-blind with random allocation of treatments to patients.

Two criteria for a positive response were used in the analysis: "any relief" and "complete relief." Analyses on an hourly basis were presented both according to the three grades of initial pain intensity and for all initial pain intensities combined. It has been noted earlier that such arbitrary quantization of graded data, a process which discards certain information, must be explained and justified, (21 CFR 314.111(a)(5)(ii)(A)(5)), and because it is an after-the-fact analysis, freedom from bias must be demonstrated. (21 CFR 314.111(a)(5)(ii)(A)(4).)

A total of 24 different comparisons of the three treatments were carried out (three time periods X two positive response criteria X four different grades of initial pain intensity). These comparisons show, in general, that the two active treatments are significantly superior to the placebo. Equagesic, however, was not superior to the combination of meprobamate and aspirin except for a single comparison: in the subpopulation of patients with severe headache initially, complete relief in

the first hour after drug administration was more frequently obtained with Equagesic than with meprobamate and aspirin. The other 23 comparisons, e.g., in patients with milder initial pain, achievement of partial

relief, and relief in the second and third hours, do not show a significant superiority for the ethoheptazine-containing combination. The following table summarizes the results after grouping all initial pain severities.

Treatment	Number of patients	All initial pain severities combined					
		Percent with any response			Percent complete relief response		
		1 h	2 h	3 h	1 h	2 h	3 h
Placebo	141	67	72	71	31	40	46
Equagesic	136	85	90	90	40	60	69
Meprobamate and aspirin	135	84	89	88	38	53	62

It is apparent that using the "any response" criterion, Equagesic and the meprobamate/aspirin combination were virtually identical when all initial pain severities are considered together. While the values for "complete relief" show a trend favoring Equagesic, the trend does not reach statistical significance. Interestingly, the trend is weakest at the first hour, the very observation time at which the "severe" subgroup did significantly better on Equagesic, further indicating the doubtful significance of the observation.

As discussed at other points in this notice, when a single, isolated "statistically significant" difference is found in the course of multiple-treatment comparisons, it does not constitute evidence of effectiveness since the likelihood is great that such a difference can arise by chance when many observations are made. It is possible that such an observation is a valid finding, but this must be shown by demonstrating it to be a reproducible finding. This study thus is not an adequate and well-controlled study because its use of an arbitrary post-study quantization of data has not been explained, nor has it been shown that bias on the part of analyst was minimized. In addition, the results do not support the conclusion that ethoheptazine makes a contribution to the analgesic effect of Equagesic.

OPPORTUNITY FOR HEARING

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of adequate and well-controlled clinical investigations, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 300.50 and 314.111(a)(5), demonstrating the effectiveness of the three drugs.

Therefore, notice is given to the holder of the new drug applications and to all other interested persons that the Director of the Bureau of

Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications (or if indicated above, those parts of the applications providing for the drug products listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25,

1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before April 13, 1978, a written notice of appearance and request for hearing, and (2) on or before May 15, 1978, the data, information and analyses on which the person relies, to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment

against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: March 9, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-6639 Filed 3-13-78; 8:45 am]

[4110-02]

Office of Education

LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

Closing Date for Receipt of Applications for Fiscal Year 1978

Notice is hereby given that pursuant to the authority contained in Title XI of the Higher Education Act of 1965, as amended, applications will be accepted from accredited law schools for institutional grants under the Law School Clinical Experience Program. Processing of these applications will be subject to the publication of funding criteria governing award of grants under the program.

Closing Date: May 24, 1978.

A. Application Forms and Information: Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about March 24, 1978.

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: 13.584, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to unforeseen circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than

May 19, 1978 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such 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: An appropriation of \$1.0 million is available to support "a one-time demonstration project" during fiscal year 1978. The statute authorizes the Commissioner to enter into grants or contracts with accredited law schools for the purpose of paying not to exceed 90 percent of the cost of establishing or expanding programs. These programs must provide clinical experience to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in the preparation and trial of cases. Costs may include such expenditures as are justified for planning, training of faculty members, faculty salaries for released time, appropriate travel, and for other related activities in connection with the program. It is expected that about twenty-five (25) programs, averaging \$40,000, will be funded; no program, however, may receive more than \$75,000.

E. For Further Information Contact: Dr. Donald N. Bigelow, Bureau of Higher and Continuing Education, U.S. Office of Education, 400 Maryland Avenue SW., (ROB-3-Room 3060) Washington, D.C. 20202, telephone 202-245-2347.

F. Applicable Regulations: The regulations applicable to this program are the Office of Education General Provisions (45 CFR 100 and 100a). Proposed Criteria for Funding Applications for Law School Clinical Experience Program were published January 18, 1978, in the FEDERAL REGISTER (43 FR 2666). If there is any change between the proposed and final criteria, applicants will be given an opportunity to make corresponding corrections in their applications.

(20 U.S.C. 1136-1136b)

(Catalog of Federal Domestic Assistance Number 13.584; Law School Clinical Experience Program)

Dated: March 7, 1978.

ERNEST L. BOYER,

U.S. Commissioner of Education.

[FR Doc. 78-6546 Filed 3-13-78; 8:45 am]

[4110-12]

Office of the Secretary

THE SECRETARY'S ADVISORY COMMITTEE

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Family Policy Task Force meeting on Friday, April 14, 1978 from 10 a.m. to 4 p.m., in room 727-A, HEW-Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will be reports on family policy issues within the Department of Health, Education, and Welfare such as the White House Conference on Families, Family Violence, Title XX, Child Care, and others.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: March 8, 1978.

SUSAN C. LUBICK,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Woman.

[FR Doc. 78-6544 Filed 3-13-78; 8:45 am]

[4110-07]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Notice of Appointment and Public Meeting

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given of the appointment and a public meeting of the Advisory Council on Social Security.

SUMMARY: The Advisory Council is charged under section 706 of the Social Security Act with reviewing the status of the four social security Trust Funds: the Old-Age and Survivors Insurance Trust Fund, the Hospital Insurance Trust Fund, the Disability Insurance Trust Fund, and the Supplementary Medical Insurance Trust Fund. This review will be in terms of

their scope of coverage, the adequacy of benefits, and all other aspects of the social security program, including their impact on public assistance programs.

Upon completion of its review, the Council will submit reports of its findings to the Secretary of Health, Education, and Welfare for transmittal to the Congress and the Board of Trustees of the social security Trust Funds. The Council's report is due October 1, 1979.

Stanford G. Ross has been named to serve as chairman of the Advisory Council. Other members appointed to the Council are Gardner Ackley, Robert Ball, Eveline M. Burns, Grace Montanez Davis, Melvin A. Glasser, Velma Hill, Morton Miller, Joseph A. Pechman, Jane Cahill Pfeiffer, John Wilson Porter, Bert Seidman, and J. W. Van Gorkom. Lawrence H. Thompson, Director of Social Security Planning, Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, will be the Executive Director of the Advisory Council.

Pursuant to Pub. L. 92-463, Federal Advisory Committee Act, notice is also given that the Advisory Council will meet on April 6, 1978, at 4 p.m. to 5:30 p.m., and April 7, 1978, from 9 a.m. to 5 p.m. at the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The session scheduled for April 6 will be largely procedural; the agenda for April 7 has not yet been set. The meeting is open to the public.

Individuals and groups who wish to have their interest in the social security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT:

Mr. Lawrence H. Thompson, Executive Director of the Advisory Council, P.O. Box 17054, Baltimore, Md. 21235. Telephone inquiries should be directed to Mr. Edward F. Moore, telephone 301-594-3171.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807, Social Security Programs.)

Dated: March 8, 1978.

LAWRENCE H. THOMPSON,
Executive Director, Advisory
Council on Social Security.

[FR Doc. 78-6553 Filed 3-13-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

FISH AND WILDLIFE SERVICE

CHARLES SIVELLE

Endangered Species Permit; Receipt of Application

The applicant, Charles Sivel, 41 Westcliff Drive, Dix Hills, N.Y. 11746, requests a permit to export 2 pairs of white-eared pheasants (*Crossoptilon crossoptilon*), the result of captive breeding, to the Koln Zoo, Koln, West Germany, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2213. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,

Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6609 Filed 3-13-78; 8:45 am]

[4310-55]

CHARLES SIVELLE

Endangered Species Permit; Receipt of Application

The applicant, Charles Sivel, 41 Westcliff Drive, Dix Hills, N.Y. 11746, requests a permit to import one pair of Cabot's tragopan (*Tragopan caboti*), captive raised, from Joseph Van Ende of Belgium for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2214. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.
[FR Doc. 78-6617 Filed 3-13-78; 8:45 am]

[4310-55]

CHIHUAHUA DESERT RESEARCH INSTITUTE

Endangered Species Permit; Receipt of Application

The applicant, Chihuahuan Desert Research Institute, P.O. Box 1334, Alpine, Tex. 79830, requests a permit to collect eggshell fragments, addled eggs and migratory bird remains from the nests of peregrine falcons (*Falco peregrinus anatum*) for scientific research in Texas and New Mexico and to import such materials from Mexico for scientific research.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2175. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.
[FR Doc. 78-6607 Filed 3-13-78; 8:45 am]

[4310-55]

CONNELL METCALF AND EDDY, INC.

Endangered Species Permits; Receipt of Application

The applicant Connell Metcalf & Eddy, Inc., 1320 S. Dixie Highway, Coral Gables, Fla. 33134, requests a permit to capture, attach radio transmitters, measure, release, and monitor the movements of 5 to 7 American crocodiles (*Crocodylus acutus*) for the purpose of scientific research.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2216. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the

above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.
[FR Doc. 78-6606 Filed 3-13-78; 8:45 am]

[4310-55]

DUKE UNIVERSITY PRIMATE CENTER

Threatened Species Permit; Receipt of Application

The applicant, Duke University Primate Center, 3705 Erwin Road, Durham, N.C. 27705, wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation those species of primates listed in 50 CFR section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2202. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.
[FR Doc. 78-6613 Filed 3-13-78; 8:45 am]

[4310-55]

FARLEY D. BLACK, JR.

Threatened Species Permit; Receipt of Application

The applicant, Farley D. Black Jr., P.O. Box 4, Collinsville, Va. 24078, wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation those species of pheasants listed in 50 CFR section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2217. Interested

persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.
[FR Doc. 78-6616 Filed 3-13-78; 8:45 am]

[4310-55]

FIELD MUSEUM OF NATURAL HISTORY

Endangered Species Permit; Receipt of Application

The applicant, Field Museum of Natural History, Roosevelt Road at Lake Shore Drive, Chicago, Ill. 60605, is for an Endangered and Threatened Species permit, authorizing an unlimited number of transactions involving the exchange, loan, or donation of herbarium specimens, of endangered plants over a 2 year period, for the purpose of scientific research.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2190. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.
[FR Doc. 78-6612 Filed 3-13-78; 8:45 am]

[4310-55]

HENRY DOORLY ZOO

Threatened Species Permit; Receipt of Application

This is an amendment to the application that appeared in FEDERAL REGISTER, Volume 42, Number 171, Friday, September 2, 1977. The applicant, Henry Doorly Zoo, Riverview Park, Omaha, Nebr. 68107, wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation those species of lemurs listed in 50 CFR section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal

business hours in room 534, 1717 B Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1215. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6605 Filed 3-13-78; 8:45 am]

[4310-55]

RANDALL WEEMS

Endangered Species Permit; Receipt of Application

The applicant, Randall Weems, P.O. Box 116, Megargel, Tex. 76307, requests a permit to purchase, in interstate commerce, one pair of Hawaiian ducks (*Anas wyvilliana*), the result of captive breeding, from William W. Lemburg of Cairo, Nebr., for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1641. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6614 Filed 3-13-78; 8:45 am]

[4310-55]

SACRAMENTO ZOO

Endangered Species Permit; Receipt of Application

The applicant, Sacramento Zoo, 3930 West Land Park Drive, Sacramento, Calif. 95822, requests a permit to purchase in interstate commerce, two Rothchild's starlings (*mynas*) (*Leucospa rothschildi*), the result of captive breedings, from the Woodland Park Zoo for enhancement of propagation.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2189. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6608 Filed 3-13-78; 8:45 am]

[4310-55]

ST. LOUIS ZOOLOGICAL PARK

Endangered Species Permit; Receipt of Application

The applicant, St. Louis Zoological Park, Forest Park, St. Louis, Mo. 63110, requests a permit to export four male and three female captive-born Hawaiian geese (*Branta sandvicensis*) to the Mich Ken Breeding Farms, Quebec, Canada, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2181. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6604 Filed 3-13-78; 8:45 am]

[4310-55]

TERRY McARDLE

Endangered Species Permit; Receipt of Application

The applicant, Terry McArdle, 5551 Richmond Road, Chatham, Ohio 44275, requests a permit to purchase, in interstate commerce from Dr. Bill Hauser of Tacoma, Wash., one pair of

Hawaiian geese (*Branta sandvicensis*) for enhancement of survival and propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2228. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6610; Filed 3-13-78; 8:45 am]

[4310-55]

WILLIAM M. MEADOR, JR.

Threatened Species Permit; Receipt of Application

The applicant, William M. Meador, Jr., P.O. Box 7454, Mobile, Ala. 36607, wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation those species of pheasants listed in 50 CFR section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2226. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6611 Filed 3-13-78; 8:45 am]

[4310-55]

WOODLAND PARK ZOOLOGICAL GARDENS

Endangered Species Permit; Receipt of Application

The applicant, Woodland Park Zoological Gardens, 5500 Phinney Avenue

North, Seattle, Wash. 98103, requests a permit to export for propagation and zoological exhibition, one female snow leopard (*Panthera uncia*) to the Calgary, Alberta, Zoological Society and reimport same after 3 months. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2222. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 13, 1978. Please refer to the file number when submitting comments.

Dated: March 9, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-6615 Filed 3-13-78; 8:45 am]

[4310-70]

Heritage Conservation and Recreation 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 March 3, 1978. Pursuant to section 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, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by March 24, 1978.

CHARLES HERRINGTON,
Acting Keeper of the
National Register.

ARKANSAS

Crawford County

Van Buren, Brown, Dr. Charles Fox, House, 420 Drennan St.

Hempstead County

Hope, Carrigan House, 704 W. Ave. B

Jefferson County

Alzheimer vicinity, The Elms (Dr. Samuel Jordan Jones House), S of Alzheimer
Alzheimer vicinity, Roselawn (Collier-Barnett House), SW of Alzheimer off AR 88

Little River County

Alleene, Reed, Will, Farm House, Main St.

Logan County

Booneville, Bank of Booneville Building, 1 W. Main St.
Subiaco vicinity, New Subiaco Abbey, N of Subiaco on College Ave.

Marion County

Yellville, Cowdrey House, 1 Valley St.
Yellville, Layton Building, 1110 Mill St.

Polk County

Mena, Scoggin House, 1215 Port Arthur Ave.

Pulaski County

Little Rock, Feild-Burcham House, 3924 Baseline Rd.
Little Rock, Pearson-Robinson House, 1900 Marshall St.

Union County

El Dorado, El Dorado Junior College Building, 300 S. West Ave.

Washington County

Fayetteville, Gordon, Troy, House, 9 E. Township Rd.

CALIFORNIA

Yuba County

Marysville, Packard Library, 301 4th St.

COLORADO

Larimer County

Fort Collins, Old Town Fort Collins, roughly bounded by College Ave., Mountain, Pine, Willow, and Walnut Sts.

DISTRICT OF COLUMBIA

Washington

Civil War Monuments in Washington, D.C., various parks within original boundaries of city

ILLINOIS

St. Clair County

Lebanon, Lebanon Historic District, irregular pattern centered along St. Louis and Belleville Sts.

INDIANA

Warrick County

Newburgh, Old Newburgh Presbyterian Church, W. Main and N. State Sts.

IOWA

Lyon County

Rock Rapids, First Methodist Church, 302 S. Carroll St.

MAINE

Knox County

Rockland, Main Street Historic District, Main St. from Limerock to Winter Sts.

MISSISSIPPI

Adams County

Natchez, Henderson-Britton House, 215 S. Pearl St.

MONTANA

Hill County

Havre vicinity, Fresno Reservoir Area, W of Havre

Lincoln County

Troy vicinity, Swanson's Homestead, S of Troy off MT 202

Ravalli County

Stevensville, Bass Mansion, 216 N. College St.

NEBRASKA

Wayne County

Wayne, Wightman, Dr. W. C., House, 702 Lincoln St.

NEW MEXICO

Chaves County

Roswell, White, James Phelps, House, 200 N. Lea Ave.

Rio Arriba County

Dulce vicinity, Cross Roads-LaJara Site, E of Dulce

NORTH CAROLINA

Vance County

Henderson, Zollicoffer's Law Office, 215 N. Garnett St.

OKLAHOMA

Grady County

Bradley vicinity, Jewett Site, S of Bradley

McCurtain County

Haworth vicinity, Harris House, 6 mi. (9.6 km) S of Haworth

Muskogee County

Oktaha, Oktaha School, off U.S. 69

Oklahoma County

Oklahoma City, Weather Service Building, 1923 Classen Blvd.

Payne County

Ripley vicinity, Ingalls Site, N. of Ripley off OK 108.

PUERTO RICO

Ponce vicinity, Centro Ceremonial Indigena, N of Ponce off SR 503.

SOUTH CAROLINA

Marlboro County

Bennettsville, Bennettsville Historic District, irregular pattern along Main St. from Everett to Lindsey and from Parsonage to Murchison.

TENNESSEE

Sullivan County

Kingsport vicinity, Rock Ledge, 117 Stuffle Pl.

TEXAS

Dallas County

Dallas, Waples-Platter Coffee Roaster Building, 2211 N. Lamar St.

Grimes County

Navasota, Steele House, 217 Brewer St.

Guadalupe County

Seguin, Johnson, Joseph F., House, 761 Johnson Ave.

Harris County

Houston, Foley, W. L., Building, 214-218 Travis St.

Tarrant County

Fort Worth, Benton, M. A., House, 1730 6th Ave.

UTAH**Salt Lake County**

Holladay, Brinton, David B., House, 1981 E. 4800 South.

Summit County

Oakley vicinity, Howe Flume Historic District, NE of Oakley on Wasatch National Forest.

Utah County

Provo, Hines Mansion, 125 S. 4th West.

Weber County

Ogden, Farr, Valasco, House, 700 Canyon Rd.

VERMONT**Bennington County**

Dorset vicinity, Kent Neighborhood Historic District, S of Dorset at Dorset West Rd., Nichols Hill Rd., and Kent Lane.

WASHINGTON**Pierce County**

Tillicum vicinity, Red Shield Inn, SW of Tillicum on Main St., Fort Lewis.

WEST VIRGINIA**Cabel County**

Green Bottom vicinity, Jenkins, Gen. Albert Gallatin, House, E of Green Bottom at 8814 Ohio River Rd.

Fayette County

Fayetteville, Fayette County Courthouse, Court St. between Wiseman and Maple Aves.

Lewis County

Weston, Bennett, Jonathan M., House, Court Ave.

Wood County

Parkersburg, Cook House, 1301 Murdock Ave.

[4310-10]

Office of the Secretary**PRIVACY ACT OF 1974****Notice of New System**

The Department of the Interior proposes the creation of a new record system subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 552a.

This new system is identified as Office of Surface Mining Reclamation

and Enforcement (OSM)-8, Employment and Financial Interests Statements—States and other Federal Agencies. The new system will include the employment and financial statements of personnel and documentation necessary to implement and enforce the conflict of interest provisions of the Surface Mining Control and Reclamation Act of 1977. The proposed record system notice is set out below.

Comments on the proposed system notice may be submitted to the Privacy Act Officer, Office of Administrative and Management Policy, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. All comments, except as noted below, received on or before April 13, 1978 will be considered. Copies of any comments received may be inspected in room 5316 at the above address.

The Department has requested a waiver from the Office of Management and Budget of the 60-day advance notice requirement for new record systems in accordance with OMB Circular A-108. Provided no comments are received which justify a contrary determination, upon the waiver being granted before the expiration of the period for public comment, the new record system notice will be effective except for the "Routine Use" paragraph. The Privacy Act requires that the public be allowed 30 days advance notice on the "Routine Use" paragraph of system notices. Comments on all aspects of the system notice will be considered, however, and any appropriate revisions in the system notice will be made in the notice adopting the "Routine Use" paragraph.

RICHARD R. HITE,
Deputy Assistant
Secretary of the Interior.

FEBRUARY 28, 1978.

Interior, ESM-8

System name:

Employment and Financial Interest Statements—States and other Federal agencies—Interior, OSM-8.

System location:

Office of Surface Mining Reclamation and Enforcement, 18th and C Streets NW., Washington, D.C. 20240.

Categories of individuals covered by the system:

(1) The head of each State regulatory authority who is required to file a financial statement with the Director of the Office of Surface Mining Reclamation and Enforcement by 30 CFR 705.15; (2) Federal employees, other than Interior Department employees, who are required to file a financial interest statement by 30 CFR 706.11(b) and who file with the Director of the

Office of Surface Mining Reclamation and Enforcement in accordance with 30 CFR 706.15(c); and (3) State employees, and Federal employees other than Interior Department employees, whose financial interest statements are referred to the Department of the Interior in accordance with 30 CFR 705.19(a)(3) or 30 CFR 706.19(c).

Categories of records in the system:

Contains Statements of Employment and Financial Interest forms for State employees (form OSM-705-1) and for Federal employees (form DI-212A) and similar forms used by Federal agencies other than the Department of the Interior. Also contains records of decisions, analysis of financial holdings, employee statements, pertinent comments from supervisors, heads of bureaus or offices, and the Solicitor's Office, and related records needed for processing.

Authority for maintenance of the system:

Sections 201 (c) and (f) and 517(g) of Pub. L. 95-87.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are (a) to review employee financial interests and determine employee compliance or non-compliance with the applicable statute and regulations; (b) to record the fact that the employee has been made aware of specifically directed legislation or regulations covering his organization and duties and that he or she is in compliance with such specific legislation or regulations; and (c) to provide an adequate system of records for auditors performing compliance audits. Disclosures outside the Department of the Interior may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, or local agencies responsible for investigating or prosecuting the violation or, (3) to a Congressional office from the record of an individual in response to an inquiry made at the request of that individual, (4) to Federal, State or local agencies where necessary to obtain information relevant to resolving prohibited financial interest situations or to litigation which may affect the hiring or retention of an employee.

Policies and practices for storing, retrieving safeguards and disposing of records in the system:

Storage: Maintained in file folders. Retrievability: Filed alphabetically by position or employee name.

Safeguards: Maintained in locked file cabinet in a locked office.

Disposal: Records filed with the Department by regulation will be destroyed two years after the employee leaves the position requiring the filing of a financial interest statement. Records referred to the Department will be returned to the referring agency for disposal in accordance with that agency's disposal policy.

System manager(s) and address:

Director, Office of Surface Mining,
U.S. Department of the Interior, 18th
and C Streets NW., Washington, D.C.
20240.

Notification procedure:

Inquiries may be addressed to the
System Manager as indicated above.

Record access procedures:

A request for access may be addressed to the System Manager for information regarding the entire system or for specific information about a State or Federal office system. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

Record Source Categories:

Present or past Federal or State employees required to file Employment and Financial Interest Statements, employee's supervisors, bureau or office heads, Ethics Counselors or the Solicitor.

[FR Doc. 78-6548 Filed 3-13-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

**UNITED STATES v. PITTSBURGH AREA
PONTIAC DEALERS, INC.**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), that a proposed consent judgment and competitive impact statement as set out below was filed in the U.S. District Court for the Western District of Pennsylvania on March 2, 1978, in *United States v. Pittsburgh Area Pontiac Dealers, Inc.*, Civil Action No. 77-1125. The complaint in this case alleged that the defendant violated section 1 of the Sherman Act by conspiring with its member dealers to reach agreements on prices other than manufacturer's suggested retail price, to be quoted for certain models of Pontiac automobiles in advertisements run on behalf of all of the member dealers.

The complaint further alleged that the agreed-upon advertised prices were used in negotiating the selling prices of Pontiacs, and that certain Pontiacs were sold for the specific prices that had been agreed upon and advertised. These violations had the effect of restraining competition in the sale of Pontiacs in the Pittsburgh area, and artificially stabilizing the retail prices of those automobiles. The proposed judgment perpetually enjoins the defendant from fixing, maintaining or stabilizing prices at which Pontiacs are sold. The proposed judgment also enjoins the defendant, for a period of 10 years, from participating in any plan to advertise the prices of Pontiacs, or in any survey relating to current or future prices of the automobiles, unless the price is the manufacturer's suggested retail price, an average price based upon actual past sales or an independent market survey of currently-offered prices. In either case, the source of the advertised price must be clearly identified in the advertisement. The competitive impact statement describes the provisions of the proposed judgments and the background of the actions and concludes that the proposed judgment provides all of the relief sought by the Department of Justice in its complaint. Public comment is invited within the 60 day statutory comment period. These comments and the Department of Justice's responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John W. Clark, Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: March 2, 1978.

CHARLES F. B. McALEER,
Special Assistant for
Judgment Negotiations.

UNITED STATES DISTRICT COURT WESTERN
DISTRICT OF PENNSYLVANIA

*United States of America, Plaintiff v.
Pittsburgh Area Pontiac Dealers, Inc., Defendant.*

Civil Action No. 77-1125.
Filed: March 2, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is

not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this or any other proceeding.

Dated: March 2, 1978.

For the plaintiff: Hugh P. Morrison, Jr.,
Deputy Assistant Attorney General;
James R. Weiss, William E. Swope, Robert
W. Wilder, Attorneys, Department of Justice;
John W. Clark, Blair Griffith, United
States Attorney.

For the defendant: John R. Luke, Esq.,
702 Frick Building, Pittsburgh, Pa. 15219.

By: John R. Luke, Attorney for Defendant.

UNITED STATES DISTRICT COURT WESTERN
DISTRICT OF PENNSYLVANIA

*United States of America, Plaintiff v.
Pittsburgh Area Pontiac Dealers, Inc., Defendant.*

Civil Action No. 77-1125.

Filed: March 2, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on September 28, 1977 and defendant, Pittsburgh Area Pontiac Dealers, Inc., having appeared by its counsel, and both parties by their respective attorneys having consented to the making and entry of this Final Judgment without admission by any party in respect to any issue;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction over the subject matter of this action and the parties hereto. The complaint states claims upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" shall mean any individual, partnership, firm, association, corporation or other business or legal entity;

(B) "Defendant" means the defendant Pittsburgh Area Pontiac Dealers, Inc.

III

The provisions of this Final Judgment shall apply to the defendant and to each of its officers, directors, agents, employees, successors and assigns, and to all other persons, in active concert or participation with any of the above and who have received actual notice of this Final Judgment by personal service or otherwise.

IV

The defendant is hereby enjoined from adopting, following or participating in any plan, practice, program or device which has among its purposes or effects fixing, maintaining or stabilizing prices at which Pontiac automobiles will be sold.

V

For a period of ten (10) years following the date of entry of this Final Judgment, the defendant is enjoined and restrained from, directly or indirectly:

(A) Entering into any agreement or understanding with any other person, or adopt-

ing, participating in or adhering to any plan, practice or program, the purpose or effect of which is to advertise the sales price of a Pontiac automobile or fix the advertised price of a Pontiac automobile; or

(B) Conducting, Publishing, distributing, participating in or adhering to any survey which in any manner relates to current prices charged or proposed or future prices to be charged for the sale of Pontiac automobiles.

VI

Nothing in Section V of this Final Judgment shall be construed to prevent the defendant from:

(A) Participating in a plan, practice, program or device to advertise the manufacturer's suggested retail price so long as it is clearly identified as such in each advertisement; or (B) Participating in a plan, practice, program or device to advertise an average price based upon (1) actual past transactions compiled from the records of each of the dealers surveyed, or (2) prices at which automobiles are currently being offered for sale; PROVIDED (a) that the average price is determined by a market survey conducted by an independent person, and that all information compiled in determining the average price is retained as confidential by the surveyor, and (b) that in each such advertisement the advertised price is clearly identified as an average price, from which individual dealers may vary, which was arrived at by an independent market survey. PROVIDED FURTHER that, where alternative (2) of this section is used, a reasonable effort shall be made to assure that the dealers surveyed are not aware of the purpose or use to be made of the solicited price information at the time of such solicitation.

VIII

Defendant is ordered and directed:

(A) Within thirty (30) days from the entry of this Final Judgment, to send a copy of this Final Judgment to each of its members;

(B) For a period of ten (10) years from the date of entry of this Final Judgment, to serve a copy of this Final Judgment upon all of its new members at such time as they become members;

(C) To file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment an affidavit as to the fact and manner of compliance with subsection (A) of this Section VII.

VII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted:

(1) Access during office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees and agents of the defendant, who

may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, the defendant shall submit such written reports, under oath if requested, with request to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF PENNSYLVANIA

United States of America, Plaintiff, v. Pittsburgh Area Pontiac Dealers, Inc., Defendant.

Civil Action No. 77-1125.

Filed: March 2, 1978.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)), the United States hereby submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDING

On September 28, 1977, the United States filed a complaint charging that the defendant Pittsburgh Area Pontiac Dealers, Inc. (hereafter "PAPD") had violated Section 1 of the Sherman Act (15 U.S.C. § 1) by con-

spiring with its member dealers to fix and stabilize the retail price of certain models of Pontiac automobiles. Entry by the Court of this proposed consent decree will terminate this action. The Court will retain jurisdiction over this matter for such further proceedings as may be required to interpret, modify or enforce the proposed judgment, or to punish violations thereof.

II

DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

The defendant is an association comprised of a number of Pontiac automobile dealers located in the Pittsburgh metropolitan area. At trial, the Government would have contended that between April, 1975 and May, 1976 the defendant, on behalf of its member dealers, published and/or broadcast advertisements in which a price was quoted for a given Pontiac model. The Government would have further shown that this price had been determined through the use of "price letters" submitted by the member dealers, in which the dealers stated the price at which they believed the designated model should be advertised. The price thus determined and presented in the advertisements was not the manufacturer's suggested retail price, and there was no language in the advertisements to indicate that that price was anything other than the price at which the automobile was being offered for sale by the member dealers. The advertised price was used by some of the dealers as a point at which to begin bargaining, and the evidence would have shown that automobiles were sold by dealers at the advertised price. The complaint alleged that this activity had resulted in restraint of competition in the sale of Pontiac automobiles in the Pittsburgh area, and the artificial stabilization of the retail price of Pontiac automobiles sold in that area.

III

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and defendant PAPD have agreed in a stipulation that the consent judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The consent judgment provides that there has been no admission by either party with respect to any issue. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of this judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

A. PROHIBITED CONDUCT

The proposed consent judgment prohibits the anticompetitive practices alleged in the complaint. Paragraph IV perpetually enjoins the defendant from participating in any type of plan which has among either its purposes or effects the fixing, maintaining or stabilizing of prices at which Pontiacs are sold. Paragraph V enjoins the defendant, for a period of 10 years, from entering into any type of agreement or plan to advertise the prices of Pontiacs, or participating in any survey relating to current or future prices of Pontiacs. The prohibitions of Paragraph V are limited, however, by Paragraph VI, which expressly states that Paragraph V does not prevent the defendant from participating in a plan to advertise the manu-

facturer's suggested retail price, or an average price based upon actual past sales or an independently conducted market survey of currently-offered prices. In either case, the source of the advertised price must be clearly identified in the advertisement. As a further safeguard on the defendant's use of the independent survey alternative, defendant is required by Paragraph VI to make a reasonable effort to ensure that the surveyed dealers are unaware of the purpose or use of the information they provide at the time the survey is made.

B. THE MANDATORY PROVISIONS

The defendant is ordered by the proposed consent judgment to send a copy of the judgment to each of its members, and for a period of ten years to serve a copy of the judgment upon each new member at the time it joins the PAPD. Within 60 days of entry of the order, defendant must file with the Court and serve upon the Government an affidavit setting forth the manner in which defendant has complied with the mandatory provisions of the consent judgment.

C. ENSURING COMPLIANCE

In order to ensure that defendant is complying with the provisions of the judgment, Paragraph VIII sets forth procedures under which representatives of the Department of Justice will be permitted to inspect and copy the PAPD's documents and to interview its officers, employees or agents. This paragraph also requires that the PAPD submit written reports upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division.

IV

ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The Government considered seeking injunctive relief which would have prohibited participation by the PAPD in all forms of cooperative price advertising for a period of years. Such relief would have prohibited PAPD from participating in even those forms of advertising that are specifically permitted by Paragraph VI of the proposed final judgment. The Government decided against this course of action because in its opinion certain forms of cooperative advertising are not antitrust violations, and in some cases such advertising can be procompetitive. Furthermore, it was not considered necessary to enjoin all forms of cooperative price advertising in order to eliminate the conduct which was the subject of the suit.

The Government also considered the possibility of a full trial on the merits as an alternative to the proposed consent judgment. However, a trial would involve substantial expense as well as a commitment of staff which otherwise could be devoted to other enforcement activities. In addition, it is felt that the proposed final judgment will provide essentially the same relief Government would have sought had it been successful at trial.

V

REMEDIES AVAILABLE TO PRIVATE PLAINTIFFS

Any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal or equitable remedies that they would have had were

the proposed consent judgment not entered. However, pursuant to Section 5(a) of the Clayton Act (15 U.S.C. §16(a)), this judgment may not be used as *prima facie* evidence in private litigation.

VI. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the consenting defendant which provides that the United States may withdraw its consent to the proposed judgment at any time until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed consent judgment provides for the Court's retention of jurisdiction of this action in order, among other reasons, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by Section 2(b) of the Antitrust Procedures and Penalties Act, any persons wishing to comment on the proposed consent judgment may, for the sixty (60) day period prior to the effective date of the judgment, submit written comments to: John W. Clark, Chief, Special Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

The comments, and the responses thereto, will be filed with the Court and published in the *FEDERAL REGISTER*. The Department of Justice will evaluate all such comments and determine whether there is any reason for withdrawal of its consent to the judgment.

VII. DETERMINATIVE DOCUMENTS

Since there are no materials or documents which were determinative in formulating a proposal for the consent judgment, none are being filed by the plaintiff pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act.

JAMES R. WEISS,
ROBERT W. WILDER,
Attorneys, Department of Justice.

[FR Doc. 78-6520 Filed 3-13-78; 8:45 am]

[4410-01]

Law Enforcement Assistance Administration

RESTITUTION BY JUVENILE OFFENDERS

Guidelines on Program

The Office of Juvenile Justice and Delinquency Prevention is pleased to announce a new discretionary grant program entitled "restitution by Juvenile Offenders." The aim of this program is to support sound, cost-effective projects which will help assure greater accountability on the part of convicted juveniles towards their victims and communities. To meet this objective, projects funded will include those which provide compensation to victims, either by payments earned through work, or services to the community.

Thus, while helping to assure greater victim and community support for juvenile justice, additional alternatives to costly, indiscriminate incarceration of juvenile offenders will be established. The program is specifically au-

thorized pursuant to section 224(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Information for the development of both preliminary and full applications is included in the guideline. Preapplications should be sent to the Office of Juvenile Justice and Delinquency Prevention by April 21, 1978.

It is intended that this program provide meaningful sentencing alternatives which increase accountability for juvenile crime. Restitution will involve monetary payments to the victims, service to the victims or the community, and thus it is expected that applicants coordinate with community service agencies and employment programs, such as the Department of Labor's Comprehensive Employment and Training Act (CETA) Program.

The program announcement which includes the guideline and background materials may be obtained by writing Mr. Douglas C. Dodge, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW., Washington, D.C. 20531.

CHAPTER 6—JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

60. Scope of Chapter. [Reserved.]

61. Restitution by Juvenile Offenders.

a. The objective of this program is to design and implement action projects which develop effective means of providing for restitution by juvenile offenders at the adjudication stage of the juvenile justice process after a finding of delinquency.

b. *Program description.* Restitution is a process whereby an adjudicated juvenile offender makes either monetary payment to the victim, provides direct service to a victim, or engages in a community service. The focus of this program is on establishing an alternative to incarceration for adjudicated juvenile offenders. Thus, restitution may be imposed as a sole sanction or as a condition of probation or a community based placement.

(1) *Problem addressed.* The problem addressed by this initiative is the lack of meaningful dispositional alternatives to incarceration which result in youth being more accountable for their behavior.

(2) *Target population.* The target population is youth who have committed misdemeanors and/or felony offenses and are adjudicated delinquent as a result of a formal fact-finding hearing or a counseled plea of guilty. It is expected that projects will include juvenile offenders with varying categories of misdemeanors and/or felony offenses, including property offenses and offenses against persons. This excludes victimless crimes and the crime of non-negligent homicide. Using data on the number of youth

adjudicated in 1975 and 1976, each community will define the target population by precise criteria, and develop action projects with provide for restitution by offenders as described above in Paragraph b.

(3) *Results sought.* (a) A reduction in the number of youth incarcerated.

(b) A reduction in recidivism of those youth involved in restitution programs.

(c) Provision for some redress or satisfaction with regard to the reasonable value of the damage or loss suffered by victims of juvenile offenses.

(d) Increased knowledge about the feasibility of restitution for juveniles in terms of cost effectiveness, impact on differing categories of youthful offenders, and the juvenile justice process.

(e) An increased sense of responsibility and accountability on the part of youthful offenders for their behavior.

(f) Greater community confidence in the juvenile justice process.

(4) *Assumptions underlying program.* (a) Restitution programs are expected to expand the dispositional alternatives available to the juvenile justice system by providing a significant alternative to incarceration.

(b) Restitution programs are expected to cause participant youth to become aware of the consequences of their acts, making them more accountable and less likely to commit new offenses.

(c) Restitution should provide the victim of a youth offense with a least partial satisfaction for the damages suffered.

(d) Public opinion regarding the effectiveness of the juvenile justice process is likely to be improved by demonstrating that juvenile offenders are being held accountable for their behavior.

c. *Program strategy.* Applications are invited which propose action programs to involve juvenile offenders in restitution programs after adjudication. Although program designs will vary in relation to the resources and characteristics of the jurisdiction, all programs must:

(1) Provide for legal safeguards to protect the rights of both juveniles and victims involved in the program. (See Appendix II of the Program Announcement, under separate cover, for a discussion of the legal issues.)

(2) Involve in program planning and implementation, community service organizations, relevant public and private youth-serving agencies, and youth and residents from neighborhoods where significant numbers of youthful offenders live.

(3) Provide for the supervision of youth in community service jobs and for their transportation and subsistence while on the job.

(4) Provide an independent monitoring mechanism that will assure fair ap-

plication of restitution requirements of all youth within the target population regardless to race, sex, color, creed, or socioeconomic status.

(5) Include within the program strategy a means for involving and informing the public about the program's purposes and progress.

(6) Assure the fair and accurate procedures and criteria for determining monetary restitution orders or community service requirements.

d. *Preapplication requirements.* The initial application will consist of a preliminary project design of 15 pages with supporting addenda. The preliminary application must include Written Agreements which spell out, court, community services and employment agency commitments, i.e., the kinds of resources to be provided or the judicial procedures or practices to be modified. Where other data are not available in time for preapplication submission, there should be an indication as to when they can be obtained and from what sources. This document should include:

(1) *Project goals and objectives.* Outline the goals and objectives of the restitution project in clear and measurable terms (see Paragraph 61e.(1) of this Chapter).

(2) *Problem definition and data needs.* Summarize in the addenda the data and information identified in Paragraph 61e. (2) (c), (d), (e), and (g) of this Chapter.

(3) *Program methodology.* Develop a project design which explains in outline form the nature and scope of the proposed restitution program. Provide in this description, in summary form, all the requirements for methodology set forth in Paragraph 61e.(3)(a)-(h).

(4) Provide a skeletal work plan which relates project activities to objectives in specific time frames.

(5) Provide a summary budget which outlines costs by categories for the program costs over three years with a breakdown for each budget year. Describe plans for supplementing LEAA funding with other Federal or State funds.

(6) *Evaluation requirements.* Provide assurance that if selected to participate in the national evaluation your project will cooperate fully with the national evaluation effort outlined in Paragraph 61j. (1) of this Chapter; and that access can be secured to essential juvenile justice data. Identify the types of data routinely recorded by the police and juvenile court and/or probation and indicate whether it is computerized or manually stored.

e. *Application requirements.* These requirements are to be used in lieu of Part IV—Program Narrative Instructions in the Standard Federal Assistance Form 424. In order to be considered for funding, applications must include the following:

(1) *Project goals and objectives.* Define program goals in terms of categories of youthful offenders who will be served by the program and expected numerical decrease in youth who will be incarcerated. Define objectives for meeting these goals in measurable terms, relating them to results sought (Paragraph 61b.(3)).

(2) *Problem definition and data needs.* (a) A socioeconomic profile of the jurisdiction with such demographic data as are necessary to document crime rates, racial/ethnic population, adult and youth unemployment, population density, school enrollment, and dropout rates.

(b) A description of the juvenile justice system and a flow chart reflecting official processing by the juvenile justice system agencies.

(c) Statistical documentation of the juveniles who were adjudicated for criminal offenses during 1975 and 1976, along with their ages, offenses, socioeconomic characteristics, and dispositions by the processing agency.

(d) A description of the statutory rules, codes, and ordinances governing juvenile behavior, including statutes which make provision for restitution and a description of administrative procedures, including formal and informal policies, which regulate or prescribe methods for responding to juvenile behavior at the adjudication stage of the juvenile justice process.

(e) A description of existing programs within the juvenile justice system or outside it, which focus on employment training, job counselling, community resources development, and any others that might be essential to the operation of an effective restitution program.

(f) Identification of gaps in availability of these programs, anticipated need for modification in scope or thrust of existing programs, along with an explanation of anticipated problems associated with making these changes.

(g) Describe any existing juvenile restitution programs and any current judicial use of restitution. Indicate how these will relate to this project.

(3) *Program methodology.* Based upon the information provided in this Paragraph, develop a project design which provides a clear description of the following:

(a) The selection criteria for juveniles who will participate in the restitution process.

(b) The range of restitution alternatives that will be available and how they will be operationalized in an equitable and fair manner so as to provide the restitution alternative to all potential participants, regardless of race, sex, color, creed or socioeconomic status.

(c) The manner in which public service jobs or other employment oppor-

tunities for youth will be developed. Provide evidence, by Written Agreement, that community service jobs and employment slots exist and that juveniles making restitution will not displace employed workers.

(d) The kind of mediation or arbitration models that will be utilized to determine the restitution requirement.

(e) The safeguards that will be developed to protect the legal rights of juveniles at the different stages of the restitution process, where there is a danger of abrogation of such rights. Minimally, such safeguards must provide legal counsel at the point where an admission or finding of guilt is made and the youth is being considered for entry into the restitution program. Provision must be made for counsel at hearings where a youth may be involuntarily terminated from the program. For a discussion of other legal issues related to restitution, see the Legal Issues Section, Appendix II of the program announcement under separate cover.

(f) The required organizational structure and personnel to support the proposed restitution program. This should be spelled out in detail, specifying the tasks of each person. The applicant should make clear the extent to which the personnel needs are met by new recruits, transfers from other parts of the agency, or personnel already employed by restitution programs.

(g) The educational and public relations activities that are required to gain and maintain public understanding and support for the program.

(h) Describe how restitution will be implemented and in doing this, address each of the following:

(1) The manner in which victims and offenders will be involved in the restitution process.

(2) Procedures for terminating restitution on completion of the contract or for failure to complete the contract, and the impact of either on court jurisdiction.

(3) The effect of the completion of the restitution requirement on employment or job training undertaken as a part of the restitution order.

(4) Assistance available to support transportation, meals and equipment, and costs for youth in community service jobs where wages are not being paid.

(5) The procedures and criteria for determining the amount of money or service to be given to victims, or the kind and amount of community services.

(6) The manner in which youth, neighborhood residents, public and private youth serving agencies, the business sector, and public and private community service organizations will be involved in the development and implementation of the program.

(4) *Work Plan.* Prepare a detailed work schedule which describes specific program objectives in relation to milestones, activities, and time frames for accomplishing the objectives.

(5) *Budget.* Prepare a budget of the total costs to be incurred in carrying out the proposed budget over three years with a breakdown for each budget year. Describe any plans for supplementing LEAA funds with other Federal, state, or private funds as well as plans for sustaining project components beyond the three year funding period. Local, public, and private funding sources should be explored as part of this effort in order to assure that the goals of the project are consistent with the jurisdiction's overall thrust. Although OJJDP funds may be used to support employment, projects are expected to seek and obtain funds to support employment from other sources.

f. *Dollar Range and Duration of Grants.* The grant period for this program is three years, but awards will be made for two years. Continuation awards are anticipated for a third year based upon satisfactory grantee performance in achieving stated objectives in the previous program year(s) and compliance with the terms and conditions of the grants. Grants will range upward from \$125,000 per site per year, with the size of the grant based on the number of juveniles served, complexity of the problems addressed, and the capacity of the jurisdiction to absorb the program after this funding terminates. A 10 percent cash match will be required of all applicants except those selected to participate in the national evaluation. See j.(1) of this Paragraph for details. However, the requirement of cash match may not be passed on to a private not-for-profit agency where it is the subgrantee or subcontractor for implementation.

g. *Eligibility to Receive Grants.* Preapplications are invited from courts, prosecutors, probation, intake, or public agencies who serve adjudicated juvenile offenders at the local, regional, or State level. Applicants may apply on behalf of one or more sites. Applicants are encouraged to subgrant for the implementation of program components with public or private not-for-profit agencies engaged in planning or support of judicial operations where this will facilitate implementation of the project. In instances where the applicant agency is not the juvenile court, a written agreement with the court and all judges who may have jurisdiction over juvenile matters must be included in the preapplication. It should indicate that the court will utilize the project by referring adjudicated youth in lieu of incarceration. The agreement must also indicate the numbers of youth projected for referral over the life of the grant.

h. *Submission Requirements.*—(1) *Preapplication.* (a) All applicants will submit the original preapplication and two copies to the Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633 Indiana Avenue NW., Washington, D.C. 20531. One copy should also be sent to the appropriate Clearinghouses and SPA. The addresses of Clearinghouses are listed in the Appendix VI of the program announcement.

(b) Upon receipt, the Office of Juvenile Justice and Delinquency Prevention will review the preapplications in relationship to the degree to which applicants meet the full range of selection criteria and select those preapplications judged to meet criteria at the highest level. Prior to final selection, site visits may be made by OJJDP staff.

(c) Applicants determined to have elements most essential to successful program development will be invited to develop full applications. Unsuccessful applicants will be notified.

(d) Preapplications must be mailed or hand delivered to OJJDP by April 21, 1978.

(1) Preapplications sent by mail will be considered to be received on time by OJJDP if sent by registered or certified mail no later than April 21, 1978, as evidenced by the U.S. Postal Service postmark on the original receipt from the U.S. Postal Service.

(2) Hand delivered preapplications must be taken to the Office of Juvenile Justice and Delinquency Prevention of LEAA, Room 442, 633 Indiana Avenue, NW., Washington, D.C. between the hours of 9 a.m. and 5:30 p.m., except Saturdays, Sundays, or Federal holidays, not later than April 21, 1978.

(2) *Applications.* (a) The Restitution Program has been determined to be of national impact and awards will be made directly to successful applicants by OJJDP. Applications should be submitted to OJJDP in accordance with the format outlined in Appendix II, Section 2, Paragraph 5 of Guideline Manual M 4500.1F, issued on December 21, 1977. The provisions of Paragraph 4b of Appendix II, and Paragraph 5, Appendix 3, regarding State Planning Agency participation, do not apply to this program.

(b) Guideline Manual M 4500.1F will be forwarded to those applicants invited to develop full applications.

(c) Those applicants selected to submit final applications will be notified of the required submission date in their notification of selection.

(d) Technical assistance will be provided to those applicants who are selected to submit final applications to assist them in developing and refining their restitution models.

i. *Criteria for Selection of Projects.* Applicants will be selected with regard

to the extent to which they meet the following criteria. In making final selections, consideration will be given to geographic distribution of projects, and a mix of jurisdictional sizes and types.

(1) The overall technical plausibility of the methodology and work plan of the proposal.

(2) The extent to which the program design provides for equal access to restitution components for all eligible youth regardless of race, color, creed, sex, ethnic group, or socioeconomic status.

(3) The extent to which the restitution program has a well-defined approach to either monetary payments, community services, or a combination of these.

(4) The extent to which the program provides an alternative to traditional juvenile dispositions, and reduces incarceration.

(5) The extent to which the program seeks to involve the victim in the process and the extent to which the victim actually benefits from the restitution process.

(6) The extent to which the public is informed of the program's purposes and methods.

(7) The extent to which the program provides legal safeguards for the youth involved.

(8) The extent to which completion of the restitution order or contract terminates the jurisdiction of the court or correctional agencies over the juvenile.

(9) The extent to which the juvenile offender participates in shaping the restitution contract or order.

(10) The extent to which youth, community residents, private nonprofit agencies, labor, business, industry, and community service organizations are involved in the development and implementation of the program.

(11) The extent to which there is use of new public or private funds beyond the required 10 percent cash match.

(12) The degree to which private not-for-profit agencies are used as subgrantees or subcontractors for program implementation.

j. Evaluation Requirements. This program will be subject to an evaluation which will be fulfilled in one of two ways:

(1) Some of the action projects will be selected to participate in a national evaluation prior to the full application submission. In making this selection, consideration will be given to including a mixture of program approaches in the national evaluation. All of the projects that are selected for the national evaluation must provide assurances that they will cooperate with the national evaluation and agree to adopt random assignment procedures. Those applicants which are selected for the national evaluation and agree

to participate will be required to provide a five percent match of Federal funds rather than a ten percent match. The major objectives of this evaluation will be determined:

(a) The impact of restitution in terms of the offender's attitude towards his/her offense and in terms of offender recidivism.

(b) The extent to which restitution gave the victim a sense of redress and increased satisfaction with the juvenile justice system.

(c) The impact of the program on dispositional patterns of the juvenile justice system, and the impact on further penetration of juvenile offenders into the juvenile justice system.

(d) The impact of the program on the public's view of the responsiveness and effectiveness of the juvenile justice system.

(e) The comparative cost of restitution to alternative forms of disposition at the adjudication stage.

(2) All grantees not selected for the national evaluation have the option of developing their own evaluation plan or of not doing an evaluation. If an evaluation plan is developed, it must be submitted with the final application, and at a minimum address the following:

(a) The program planning process, i.e., how the goals, objectives and methodologies were selected.

(b) The number and types of youth participating in the restitution program.

(c) The role of the victim in the restitution program.

(d) How the amount and form of restitution is determined.

(e) The organizational structure and management practices of the program.

(f) The role of the youth-serving agencies, juvenile justice agencies and other community groups in the program.

(g) The impact of restitution in terms of the offender's attitude towards his/her offense, and in terms of offender recidivism (using official records).

(h) The impact of restitution upon administrative practices/procedures and policies of the juvenile justice system.

(i) The impact of the program on the public's view of the responsiveness and effectiveness of the juvenile justice system.

(j) The comparative cost of restitution to alternative forms of disposition at the adjudication stage.

(3) To support the local evaluation, add up to 15 percent of total project costs. The Request for Evaluation Proposals must be included in the final application.

k. Special Requirements. (1) Assurances must be provided that access can be secured to essential juvenile justice system data (police and court records)

in the form of written agreements. Data routinely collected by the police and juvenile court must be identified and labelled as computerized or manually stored.

(2) To support coordination and information exchange among projects, funds will be budgeted in applications to cover the cost of four meetings during the course of the three year project. The first meeting will be held shortly after the grant is awarded.

(3) Section 524 (a) and (c) of the Crime Control Act of 1968, as amended, provides that records used or gathered as part of the evaluation or statistical component of the program must be kept confidential. Information gathered under funds from this program, identifiable to a specific private person, can only be used for the purpose for which obtained and may not be used as a part of any administrative or judicial proceeding without the written consent of the child and/or his parent or legal representatives.

(4) Section 229 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, expands the confidentiality requirements to all program records. Thus, "except as authorized by law, program records containing the identity of individual juveniles gathered for the purposes pursuant to this title may not be disclosed except with the consent of the service recipient or legally authorized representatives or as may be necessary to perform the functions required by this title." Under no circumstances may project reports or findings available for public dissemination contain the actual names of service recipients.

(5) The project must assure that information on offense(s) will be kept confidential and not be made available to an employer or community service agency.

1. Definitions—(1) *Restitution*—is defined as payments by the offender in cash to the victim or service to either the victim or the general community, when these payments are made within the jurisdiction of the juvenile and criminal justice process.

(2) *Adjudication*—is the process of determining guilt or innocence in juvenile court proceedings by either a counseled plea of guilty or a formal fact-finding hearing.

(3) *Disposition*—is that procedure in the juvenile court process which results in the imposition of a sentence, e.g., probation or commitment.

(4) *Victim Service*—involves the juvenile offender providing the victim of the offense with assistance to either repair the damage done or some other comparable activity which assists the victim in accomplishing tasks at his home or place of business, e.g., repair a broken window or door, assist with stocking a victim's shelves, or cleaning work areas.

(5) *Community Service*—means that in lieu of monetary payment or victim service, the offender may work for a designated period for a public or private not-for-profit organization which provides human services to that community, e.g., day care facilities, mental health facilities, recreational programs, etc.

(6) *Delinquency*—is the behavior of a juvenile that is in violation of a statute or ordinance in a jurisdiction which would constitute a crime if committed by an adult.

(7) *Jurisdiction*—is any unit of general local government such as city, county, township, borough, parish, village, or combination of such units.

(8) *Juvenile*—is a child or youth, defined as such by state or local law, who by such definition is subject to the jurisdiction of the juvenile court.

(9) *Juvenile Justice System*—refers to official structures, agencies, and institutions with which juveniles may become involved including, but not limited to, juvenile courts, law enforcement agencies, probation, after-care, detention facilities, and correctional institutions.

(10) *Law Enforcement Agency*—is any police structure or agency with legal responsibility for enforcing a criminal code, including, but not limited to, police and sheriffs' departments.

(11) *Private Youth-Serving Agency*—is any agency, organization, or institution with two years experience in dealing with youth, designated tax exempt by the Internal Revenue Service under Section 501(c) of the Internal Revenue Code.

(12) *Program*—refers to the national initiative to establish restitution programs supported by OJJDP and the overall activities related to implementing the restitution program.

(13) *Project*—refers to the specific set of activities at given site(s) designed to achieve the overall goal of reducing delinquent behavior through the use of restitution.

(14) *Public Youth-Serving Agency*—is any agency, organization, or institution with two years experience, which functions as part of a unit of government, and is thereby supported by public revenue for purposes of providing services to youth.

62-70. [Reserved.]

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

JAMES M.H. GREGG,
Assistant Administrator.

[FR Doc. 78-6454 Filed 3-13-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration FEDERAL COMMITTEE ON APPRENTICESHIP

Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct the following open meetings at The Hilton Inn, 1601 Miracle Mile Strip, Tucson, Ariz., as shown below:

(a) FCA Subcommittee on Federal-State Relations.

Purpose: Discussion on the need and the approaches to a more integrated Federal and State administrative structure.

Date: March 29, 1978.

Time: 9 a.m.-11 a.m.

(b) FCA Subcommittee on Research.

Purpose: Research Developments in Apprenticeship.

Date: March 29, 1978.

Time: 11 a.m.-12 noon.

Place: Mt. Vernon Room.

(c) FCA Subcommittee on Goals of the FCA.

Purpose: A progress report from Bob Glover on the apprentice registration centers; proposed development on an information publication on all regulations pertaining to apprenticeship training; proposed survey of where credit is now being given for previous experience.

Date: March 29, 1978.

Time: 1:30 p.m.-3:30 p.m.

Place: Hermitage Room.

(d) FCA Subcommittee on Legislation.

Purpose: Apprenticeship Legislation.

Date: March 29, 1978.

Time: 4 p.m.-5 p.m.

Place: Mt. Vernon Room.

The Federal Committee on Apprenticeship will hold a full open meeting on Thursday, March 30, from 9 a.m.-4:30 p.m.; Friday, March 31, 1978, from 9 a.m. to 12 noon at the Williamsburg and Natchez Rooms.

The agenda for the meeting on March 30 will include:

1. Opening Remarks:

Ernest G. Green, Assistant Secretary for Employment and Training.

2. Review of Agenda Topics:

David Turner, Co-Vice Chairperson (Labor) FCA.

3. Update report on the Registration of National Apprenticeship Standards with the Department of Defense:

Paul H. Vandiver, Director, Office of National Industry Promotion, BAT, ETA.

4. Report on Meeting with the Secretary of Labor:

Charles H. Pillard, Chairperson, FCA Legislative Subcommittee.

5. Progress Report on 29 CFR 30—Equal Employment in Apprenticeship Program:

Dionicio Morales, Chairperson, FCA Subcommittee on Equal Apprenticeship Opportunity.

6. Product Oriented Education and Quality Control in the Public School:

William H. Monteith (FCA Management Member).

7. Progress Report on Apprenticeship Opportunity Centers:

Robert S. Glover, Director, Center for the Study of Human Resources, University of Texas.

8. General Discussion of Apprenticeship and CETA.

The agenda on March 31 will include:

1. "Specializations of Occupations within the Automotive Service Industry"

Robert F. Sigel, Director, Apprenticeship and Training, Automotive Service Councils, Inc.

Donald A. Randall, ASC Washington Attorney.

2. "Briefing on Clearinghouse Project"

Edward Davin, Project Director, Clearinghouse of Apprenticeship Information, Kirschner Associates.

3. Suggested dates and agenda items for next FCA meeting.

Agendas are subject to change due to time constraints and priority items which may come before the Committees between the time of this publication and the scheduled date of the FCA meetings.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agendas may do so by furnishing it to the Executive Secretary at any time prior to the meetings. Thirty copies are needed for the members and for the inclusion in the minutes of the meetings.

Any member of the public who wishes to speak at these meetings should so indicate in a written statement, also the nature of intended presentation and amount of time needed. The Chairpersons will announce at the beginning of the meetings the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. Marion M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street N.W. (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 9th day of March 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc. 78-6584 Filed 3-13-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration STANDARDS ADVISORY COMMITTEE ON CUTANEOUS HAZARDS

Appointment of Members and First Meeting

Notice is hereby given of the formation of an Ad Hoc Standards Advisory Committee on Cutaneous Hazards, as authorized by section 7 (b) of the Oc-

Occupational Safety and Health Act of 1970 (29 U.S.C. 656). This Committee will identify the occupational exposures in industry which pose a hazard to the skin and/or use the skin as a portal of entry. Once these hazards are identified and evaluated the Committee will provide OSHA with a set of guidelines to use in the drafting of a proposed standard on cutaneous hazards.

The membership of the Committee and the categories represented are as follows:

PUBLIC

Raymond R. Suskind, M.D.—Chairman, Department of Environmental Health, Kettering Laboratory, University of Cincinnati, 3223 Eden Avenue, Cincinnati, Ohio 45267.

Donald J. Birmingham, M.D., Department of Dermatology and Syphilology, Wayne State University, Detroit, Mich. 48202.

MANAGEMENT

Ms. Dorothy B. Hood, Central Research and Development Department, Haskell Laboratory for Toxicology and Industrial Medicine, E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898.

Mr. Robert A. Scala, Director of Toxicology, Research and Environmental Health Division, Medical Department, Exxon Corp., P.O. Box 45, Linden, N.J. 07036.

Jack H. Wolfsie, M.D., Vice President and Medical Director, The Equitable Life Assurance Society of the United States, 1285 Avenue of the Americas, New York, N.Y. 10019.

LABOR

Mr. Dan MacLeod, Industrial Hygiene Consultant, United Auto Workers, International Union, 8000 East Jefferson Avenue, Detroit, Mich. 48214.

Mr. Louis S. Beliczky, Director, Occupational Safety and Health, United Rubber Workers of America, URWA Building, 87 South High Street, Akron, Ohio 44308.

Miss Sylvia Kregel, Occupational Health Specialist, Oil, Chemical & Atomic Workers International Union, P.O. Box 2812, Denver, Colo. 80201.

FEDERAL

Stephen I. Katz, M.D., Building 10, Room 12N238, National Institutes of Health/NCI, Bethesda, Md. 20014.

Dr. Robert J. Scheuplein, Chief Dermal and Ocular, Toxicity Branch, Room 24S-1009, Public Health Service, Food and Drug Administration, Rockville, Md. 20852.

STATE

Ira Howard Monosson, M.D., 2310 Malcolm Avenue, Los Angeles, Calif. 90064.

Notice also is given that the Ad Hoc Standard Advisory Committee on Cutaneous Hazards will meet on March 30 and 31 at 9 a.m., in Room S-4215 of the New Department of Labor Building. The public is invited to attend.

The agenda for this first meeting will consist primarily of organizational items including: preliminary planning, and a discussion, in general terms, of the scope and goals of the Committee.

FOR ADDITIONAL INFORMATION CONTACT:

Tom Hall, Division of Consumer Affairs, Room N-3635, Department of Labor, OSHA, 3rd Street and Constitution Avenue N.W., Washington, D.C. 20210, phone 202-523-8024.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C., this 3d day of March 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR. Doc. 78-6383 Filed 3-13-78; 8:45 am]

[4510-28]

Office of the Secretary

ALTOONA SHOE, INC. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor

Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting there eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 24, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 24, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of February 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Altoona Shoe, Inc. (workers)	Altoona, Pa.	Feb. 7, 1978	Jan. 31, 1978	TA-W-3,247	Women's shoes.
American Motors Corp., AMTEK (UAW).	Detroit, Mich.	Feb. 14, 1978	Feb. 9, 1978	TA-W-3,248	Provides technical and administrative services.
American Motors Corp., Milwaukee body plant (UAW).	Milwaukee, Wis.	do.....	do.....	TA-W-3,249	Produces passenger car bodies.
American Motors Corp., Kenosha manufacturing facilities (UAW).	Kenosha, Wis.	do.....	do.....	TA-W-3,250	Sub-compact, compact and intermediate size cars.
Amity Browne-Tilt, Inc. (International Association of Retail Clerks).	St. Louis, Mo.	Feb. 15, 1978	Feb. 11, 1978	TA-W-3,251	Shoe patterns for men and women's shoes.
The Anaconda Co., Mining Division (USWA).	Butte, Mont.	Jan. 24, 1978	Jan. 17, 1978	TA-W-3,252	Copper ore and concentrates, blister copper and refined copper.
Annetta of California, Inc. (ILOWU).	Pico Rivera, Calif.	Feb. 14, 1978	Feb. 9, 1978	TA-W-3,253	Ladies' coats.

APPENDIX - Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bogart Industries, Inc. (workers).	Cleburne, Tex.	do.....	Feb. 10, 1978	TA-W-3,254	Ladies' sportswear.
Classy Leather Goods Corp. (workers).	Middletown, N.Y.	do.....	do.....	TA-W-3,255	Ladies' handbags.
Do.....	New York, N.Y.	do.....	do.....	TA-W-3,256	Do.
Coleman Products Co. (company).	Iron River, Mich.	Feb. 16, 1978	Feb. 9, 1978	TA-W-3,257	Automobile wire harness for AMC passenger vehicles and jeeps.
Do.....	Coleman, Wis.	do.....	do.....	TA-W-3,258	Do.
Evert Products Co. (company) Lauman road assembly plant.	Evert, Mich.	do.....	do.....	TA-W-3,259	Assembles various plastic components for AMC passenger vehicles.
Evert Products Co. (company), 601 West 7th St.	do.....	do.....	do.....	TA-W-3,260	Various plastic components for AMC passenger vehicles.
James H. Beans Foundry (USWA).	Martins Ferry, Ohio	Feb. 13, 1978	Feb. 10, 1978	TA-W-3,261	Rayon castings of the ferro-alloy industry.
Mississippi Valley Structural Steel (workers).	Maplewood, Mo	do.....	Feb. 3, 1978	TA-W-3,262	Fabricating steel for use in construction.
Q-T Shoe Manufacturing Co., Inc. (workers).	Lebanon, Pa	do.....	Feb. 6, 1978	TA-W-3,263	Women's casual and sport footwear.
RCA Corp. (International Union of Electrical, Radio, and Machine Workers).	Somerville, N.J.	Feb. 15, 1978	Feb. 9, 1978	TA-W-3,264	Semiconductors.
Victor Gloves Manufacturing Corp. (ACTWU).	New York, N.Y.	do.....	do.....	TA-W-3,265	Foot protectors, toys, dolls, and other sundry items.
Westinghouse Electric Corp. (IUE).	Belleville, N.J.	Feb. 13, 1978	Feb. 3, 1978	TA-W-3,266	Lamp bases.
William B. Pollack (USWA).	Youngstown, Ohio	do.....	Jan. 15, 1978	TA-W-3,267	Hot metal handling material, blast furnaces, and other equipment used in the steel industry.
Wollman Industries, Inc. (workers).	Hazleton, Pa.	Feb. 24, 1978	Feb. 22, 1978	TA-W-3,268	Grey goods, fabrics used for men's and women's clothing.

[FR Doc. 78-6585 Filed 3-13-78; 8:45 am]

[4510-28]

ARMCO STEEL CORP. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers'

firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such

request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 24, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 24, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of March 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Armco Steel Corp., Butler Works (Butler Armco Independent Union).	Butler, Pa.	Feb. 21, 1978	Feb. 17, 1978	TA-W-3,269	Hot and cold rolled stainless sheet and strip, flat rolled electrical steels, grain oriented electrical sheet, and cold rolled nonoriented sheet.
Baro Corp. (workers).	Haverhill, Mass.	do.....	Feb. 14, 1978	TA-W-3,270	Stitching of shoe uppers.
Bunker Hill Co., Pen Orille Mine & Mill Division (USWA).	Kellogg, Idaho	Feb. 7, 1978	Jan. 10, 1978	TA-W-3,271	Zinc and zinc concentrates.
C.P. Clare & Co. (International Brotherhood of Electrical Workers).	Chicago, Ill.	Feb. 21, 1978	Feb. 15, 1978	TA-W-3,272	Electromechanical relays.
Crestlane Clothes, Inc. (ACTWU).	New York, N.Y.	do.....	Feb. 7, 1978	TA-W-3,273	Men's tailored clothing.
Dale Brook Finishing Co., Inc. (workers).	Ho-Ho-Kus, N.J.	do.....	Feb. 9, 1978	TA-W-3,274	Finishes greige goods and applies finishing for interlining fabric.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Diane Handbags, Inc. (ILGWU).	Newburgh, N.Y.	do.....	Feb. 15, 1978	TA-W-3,275	Ladies' vinyl handbags.
The Duluth, Missabe, & Iron Range RY. Co. (United Transportation Union).	Duluth, Minn.	do.....	do.....	TA-W-3,276	Transporting iron ore from the Missabe Range to Lake Superior.
Freeland Shirt Co. (ACTWU).	Freeland, Pa.	do.....	Feb. 2, 1978	TA-W-3,277	Men's and ladies' outerwear.
General Electric Co., Tube Products Division (Allied Industrial Workers of America).	Owensboro, Ky. plants	do.....	Feb. 15, 1978	TA-W-3,278	Electronic receiving tubes and mounts.
Gerald Leather Goods Corp. (ILGPNWU).	Newburgh, N.Y.	do.....	do.....	TA-W-3,279	Ladies' vinyl handbags.
Manufacturing Group, Inc. (workers).	Greensboro, N.C.	do.....	Feb. 14, 1978	TA-W-3,280	Textured polyester yarns.
Mid Hudson Leather Goods Co., Inc. (ILGPNWU).	Newburgh, N.Y.	do.....	Feb. 15, 1978	TA-W-3,281	Ladies' vinyl handbags.
Modform, Inc. (workers).	Cleveland, Ohio	Feb. 22, 1978	Feb. 17, 1978	TA-W-3,282	Nuts, fasteners, and screw machines.
New B. Garment Co. (ACTWU).	New Bethlehem, Pa.	do.....	Feb. 11, 1978	TA-W-3,283	Knit shirts and tops for boys' and ladies'.
Publix Meridian, Inc. (ACTWU).	Meridian, Miss.	Feb. 21, 1978	Feb. 16, 1978	TA-W-3,284	Men's shirts.
Quaker Alloy Casting Co. (company).	Myerstown, Pa.	Feb. 22, 1978	Feb. 20, 1978	TA-W-3,285	Steel castings of various sizes and shapes.
Rain Ducker, Inc. (workers).	Duluth, Minn.	Feb. 23, 1978	Feb. 17, 1978	TA-W-3,286	All types of winter and summer outerwear for women and children.
Red Bank Clothing Manufacturing Co., Inc. (workers).	Red Bank, N.J.	Feb. 22, 1978	Feb. 16, 1978	TA-W-3,287	Contractor of men's coats.
Regal Bag (ILGPNWU).	Newburgh, N.Y.	Feb. 21, 1978	Feb. 15, 1978	TA-W-3,288	Ladies' handbags of vinyl, leather and canvas.
Tromer Tromader, Inc. d.b.a. Tromer Fabrics (worker).	New York, N.Y.	Feb. 22, 1978	Feb. 8, 1978	TA-W-3,289	Selling agency for the textile mills.
William Amer Co. (workers).	Philadelphia, Pa.	do.....	Feb. 17, 1978	TA-W-3,290	Tanning and finishing various kid leather used for shoe uppers.

[FR Doc. 78-6586 Filed 3-13-78; 8:45 am]

[4510-28]

APECO CORP. ET AL

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act 1974 ("the Act") and are identified in the Appendix of this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Di-

rector, Office of Trade Adjustment Assistance, at the address shown below, not later than March 24, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 24, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 23rd day of February 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
APECO Corp. (company)	Evanston, Ill.	Feb. 8, 1978	Jan. 30, 1978	TA-W-3,207	Electrostatic photocopy machines.
Do	Atlanta, Ga.	do.....	do.....	TA-W-3,208	Do.
Do	Boston, Mass.	do.....	do.....	TA-W-3,209	Do.
Do	Bellwood, Ill.	do.....	do.....	TA-W-3,210	Do.
Do	Cincinnati, Ohio	do.....	do.....	TA-W-3,211	Do.
Do	Cleveland, Ohio	do.....	do.....	TA-W-3,212	Do.
Do	Charlotte, N.C.	do.....	do.....	TA-W-3,213	Do.
Do	Dallas, Tex.	do.....	do.....	TA-W-3,214	Do.
Do	Detroit, Mich.	do.....	do.....	TA-W-3,215	Do.
Do	Houston, Tex.	do.....	do.....	TA-W-3,216	Do.

APPENDIX—Continued

Petitioner; Union/workers or formers workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
APECO Corp. (company).....	Miami, Fla.....	Feb. 8, 1978	Jan. 30, 1978	TA-W-3,217	Electrostatic photocopy machines.
Do.....	Fairfield, N.J.....	do.....	do.....	TA-W-3,218	Do.
Do.....	Philadelphia, Pa.....	do.....	do.....	TA-W-3,219	Do.
Do.....	Pittsburgh, Pa.....	do.....	do.....	TA-W-3,220	Do.
Do.....	St. Louis, Mo.....	do.....	do.....	TA-W-3,221	Do.
Do.....	Washington, D.C.....	do.....	do.....	TA-W-3,222	Do.
Do.....	New York, N.Y.....	do.....	do.....	TA-W-3,223	Do.
Do.....	Denver, Colo.....	do.....	do.....	TA-W-3,224	Do.
Do.....	Minneapolis, Minn.....	do.....	do.....	TA-W-3,225	Do.
Do.....	Milwaukee, Wis.....	do.....	do.....	TA-W-3,226	Do.
ARA Services Admiral Div. (workers).....	Harvard, Ill.....	Feb. 9, 1978	Feb. 8, 1978	TA-W-3,227	Provides cafeteria service for Admiral.
Brown Shoe Co. (workers).....	Potosi, Mo.....	Feb. 14, 1978	Feb. 8, 1978	TA-W-3,228	Women's shoes.
Dover Conveyor and Equip- ment (workers).....	Midvale, Ohio.....	Feb. 7, 1978	Feb. 4, 1978	TA-W-3,229	Conveyors, mine hoists and mine sealant machines.
East Range Clinic—Erie Mining Dispensary Dept. (workers).....	Virginia, Minn.....	Feb. 9, 1978	Feb. 3, 1978	TA-W-3,230	To care for the medical needs of the workers of the mine.
Hibshman Screw Machine Products, Inc. (company).....	Union, Mo.....	do.....	Jan. 31, 1978	TA-W-3,231	All types of component parts.
Jessop Steel Co. (USWA).....	Washington, Pa.....	Feb. 7, 1978	Jan. 15, 1978	TA-W-3,232	Stainless steels—tool steels and cast-shape stainless items.
Land Mfg. Corp. I.L.G.W.U.....	Newark, N.J.....	do.....	Feb. 2, 1978	TA-W-3,233	Ladies' coats.
Magnecraft of Rapid City, S. Dak. (workers).....	Rapid City, S. Dak.....	Feb. 9, 1978	Feb. 3, 1978	TA-W-3,234	Mercury displacement relays.
Mickey Blumfield, Inc. (workers).....	New York, N.Y.....	Feb. 8, 1978	do.....	TA-W-3,235	Ladies' coats and raincoats.
Newmont Exploration, Ltd. (workers).....	Tucson, Ariz.....	Feb. 14, 1978	Feb. 8, 1978	TA-W-3,236	Involved in the discovery of mineral deposits for mining.
Do.....	Elko, Nev.....	do.....	do.....	TA-W-3,237	Do.
Do.....	Spokane, Wash.....	do.....	do.....	TA-W-3,238	Do.
Pennsylvania Engineering Corp. (UAW).....	New Castle, Pa.....	Feb. 7, 1978	Feb. 1, 1978	TA-W-3,239	Basic oxygen furnaces, ladles and cylinder railroad cars.
Roane Electric Furnace Corp. (USWA).....	Rockwood, Tenn.....	do.....	Jan. 10, 1978	TA-W-3,240	Standard ferro-alloys, ferromanganese, ferrosilicone, silicomanganese and medium carbon manganese.
Sabre Enterprises, Inc. (workers).....	Cleveland, Ohio.....	Feb. 14, 1978	Feb. 10, 1978	TA-W-3,241	Special fasteners, cold-headed and roll-threaded products.
Sentar Glass Co. (workers).....	Westmont, N.J.....	Feb. 10, 1978	Feb. 6, 1978	TA-W-3,242	Hand blown glass articles.
Union Bridge Clothing Co., Inc. (workers).....	Union Bridge, Md.....	Feb. 8, 1978	do.....	TA-W-3,243	Men's suit coats, sport coats and vests.
Warner Gear Co. (UAW).....	Muncie, Ind.....	Feb. 10, 1978	do.....	TA-W-3,244	Car, light trucks, marine and industrial hydraulic transmissions.
Weather Wise Raincoats, Inc. (workers).....	New York, N.Y.....	Feb. 8, 1978	Feb. 3, 1978	TA-W-3,245	Ladies' coats and raincoats.
Wilson Sporting Goods Co. (company).....	Tullahoma, Tenn.....	Feb. 2, 1978	Feb. 6, 1978	TA-W-3,246	Baseballs.

[FR Doc. 78-6587 Filed 3-13-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION NATIONAL SCIENCE FOUNDATION ADVISORY COUNCIL

Notice of Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, it is hereby determined that the renewal of the National Science Foundation Advisory Council is necessary and in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the General Services Administration pursuant to section 114(a)(1) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

Authority for this advisory council shall expire on March 8, 1980, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

Dated: March 8, 1978.

RICHARD C. ATKINSON,
Director.

[FR Doc. 78-6591 Filed 3-13-78; 8:45 am]

[7555-01]

PRIVACY ACT OF 1974

Additional System of Records

Pursuant to the requirement of section 3 of the Privacy Act of 1974, 5 U.S.C. 352a(c)(4), notice is hereby given of the existence and character of a new system of records to be maintained by the National Science Foundation and of the routine uses thereof. Interested persons are invited to submit written data, views, or arguments to the Director, National Science Foundation, Attention: General Counsel, Washington, D.C. 20550, not later than thirty days from the date of this published notice.

NSF-45

System name:

Sample of U.S. Scientists Who Published Research Papers during 1978.

System location:

King Research, Inc., 6000 Executive Boulevard, Suite 307, Rockville, Md. 20852.

Categories of individuals concerned by the system:

The Background Survey individuals who published research papers in sci-

entific journals during calendar year 1978. A sample of scientists in each of three scientific disciplines is covered.

Categories of records in the system:

Demographic, education, and professional characteristics of U.S. scientists. The study concentrates primarily upon factors describing the scientists' perceptions of the relative importance of journal characteristics such as price, prestige, type of audience, quality, and level of readership.

Routine uses of record maintained in the system, including categories of users, and the purposes of such uses:

The Survey is used to generate a data base for analysis performed for the NSF-funded research contract DSI-77-17943 "An In-Depth Study of the Interactions Between Scientists and the Publishing of Scientific Journals." In addition, a subsample of survey respondents are to be contracted for personal interviews regarding their evaluation of the journals which they use. Data provided by respondents are used by the Principal Investigator for analysis purposes only and are published only in summary form without identifying specific individuals or institutions. May be released

for statistical purposes without identifiers.

Policies and practices for storing, retrieving, accessing, and disposing of records in the systems.

Storage:

Questionnaires and computer cards are maintained by contractor, King Research.

Retrievability:

Questionnaires: filed alphabetically by last name. Computer Cards: sorted numerically by preassigned code number.

Safeguards:

Building is locked after business hours. Office in which Questionnaire and computer cards are stored is also locked after business hours. After completion of personal interviews and analysis respondents' names are removed from Questionnaires. At the completion of this research project the list of respondents' names, addresses, and telephone numbers will be destroyed.

System manager(s) and address:

Helen Ebenfield, Division of Information Science and Technology, National Science Foundation, Washington, D.C. 20550, Dennis McDonald (Principal Investigator, NSF DSI-77-17943.) King Research, Inc., Suite 307, 6000 Executive Boulevard, Rockville, Md. 20852.

Notification procedures:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures:

See "Notification" above.

Records source categories:

Information obtained from individuals and from other sources available to the general public.

Dated: March 8, 1978.

RICHARD C. ATKINSON,
Director.

[FR Doc. 78-6630 Filed 3-13-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE MCGUIRE NUCLEAR PLANT

Meeting

The ACRS Subcommittee on the McGuire Nuclear Plant, will hold a meeting on March 29-30, 1978 at the Holiday Inn, Airport, I-85 and Little

Rock Road, Charlotte, N.C. 28214 to review the application of the Duke Power Company for a license to operate this plant.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday and Thursday, March 29 and 30, 1978, 8:30 a.m. until the conclusion of business each day.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the MRC Staff, the Duke Power Co., The Westinghouse Corp. and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio (telephone 202-634-1920) between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street NW., Washington, D.C. 20555 and at the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, N.C. 28202.

Dated: March 9, 1978.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc. 78-6536 Filed 3-13-78; 8:45 am]

[7590-01]

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-23, issued to Carolina Power & Light Co. (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility) located in Darlington County, Hartsville, S.C. The amendment becomes effective 30 days after the date of issuance.

This amendment adds a license condition relating to the completion of facility modifications for fire protection. It also revises the Technical Specifications to incorporate limiting conditions for operation and surveillance requirements for existing fire protection systems and administrative controls. Additional operating and surveillance requirements for the modifications being performed will be added to the Technical Specifications after the modifications are completed.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated December 29, 1976, June 23, September 9, September 16, September 28, September 30, October 27, November 17 and November 28, 1977, and January 5, 1978, (2) Amendment No. 31 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available

for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, S.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28th day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-6528 Filed 3-13-78; 8:45 am]

[7590-01]

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the licensee), which revised Technical Specifications for operation of the La Crosse Boiling Water Reactor (LACBWR) located in Vernon County, Wis. The amendment becomes effective 30 days after its date of issuance.

The amendment incorporates fire protection Technical Specifications on the existing fire protection equipment and adds administrative controls related to fire protection at LACBWR. This action is being taken pending completion of the Commission's overall fire protection review of LACBWR.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for

amendment dated July 20, 1977, as supplemented January 11, 1978, (2) the Commission's letter to the licensee dated November 28, 1977, (3) Amendment No. 10 to License No. DPR-45, and (4) the Commission's related Safety Evaluation issued November 28, 1977. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the La Crosse Public Library, 800 Main Street, La Crosse, Wis. A copy of items (2) through (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-6529 Filed 3-13-78; 8:45 am]

[7590-01]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

This amendment revises the axial power imbalance limits and axial power shaping rod position limits consistent with extending the duration of the present operating cycle from 270±10 to 315 effective full power days.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant envi-

ronmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 17, 1978, as supplemented March 1, 1978, (2) Amendment No. 38 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 7th day of March 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-6530 Filed 3-13-78; 8:45 am]

[7590-01]

[Docket No. 50-320]

Metropolitan Edison Co., et al.

THREE MILE ISLAND NUCLEAR STATION, UNIT NO. 2

Availability of Initial Decision of the Atomic Safety and Licensing Board

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that an Initial Decision dated December 19, 1977, by the Atomic Safety and Licensing Board in the above-captioned proceedings is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Harrisburg, Pa.

Based on the record developed in the public hearing in the above-captioned matter, the Initial Decision modified in certain respects the contents of the Final Supplement to the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation relating to the proposed construction of the Three Miles Island Nuclear Station, Unit No. 2.

Pursuant to the provisions of § 51.52(b)(3) of 10 CFR Part 51, the

Final Supplement to the Final Environmental Statement is deemed modified to the extent that the Findings and Conclusions contained in the Initial Decision differ from those contained in the Final Supplement to the Final Environmental Statement. As required by § 51.52(b)(3) of 10 CFR Part 51, a copy of the Initial Decision, which modifies the Final Supplement to the Final Environmental Statement, has been transmitted to the Environmental Protection Agency and other interested agencies and persons in accordance with § 51.26(c) of 10 CFR Part 51.

The Initial Decision and the Final Supplement to the Final Environmental Statement are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Government Publications Section, State Library of Pennsylvania, Education Building, Harrisburg, Pa. Copies of the Final Supplement to the Final Environmental Statement (Document No. NUREG-0112) may be purchased at current costs, from the National Technical Information Center, Springfield, Va. 22161.

Dated at Bethesda, Md., this 7th day of March 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects
Branch 2, Division of Site
Safety and Environmental
Analysis.

[FR Doc. 78-6532 Filed 3-13-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.33, Revision 2, "Quality Assurance Program Requirements (Operations)," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to overall quality assurance program requirements for the operation phase of nuclear power plants. This guide endorses ANSI Standard N18.7-1976/

ANS-3.2, "Administrative Controls and Quality Assurance for the Operational Phase of Nuclear Power Plants." Revisions 2 reflects public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 6th day of March 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.
[FR Doc. 78-6531 Filed 3-13-78; 8:45 am]

[7590-01]

[Docket No. STN 50-4851]

ROCHESTER GAS AND ELECTRIC CORP., ET AL.

Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of March 7, 1978, oral argument on the appeals from the August 26, 1977 initial decision of the Licensing Board is calendared for 9:30 a.m., Wednesday, April 12, 1978 in the 5th floor Auditorium, Public Safety Building, 511 South State Street, Syracuse, N.Y.

Dated: March 8, 1978.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-6534 Filed 3-13-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-566 and STN 50-567]

TENNESSEE VALLEY AUTHORITY, YELLOW CREEK NUCLEAR PLANT, UNIT NOS. 1 AND 2

Availability of Partial Initial Decision of the Atomic Safety and Licensing Board

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Partial Initial Decision dated February 3, 1978 by the Atomic Safety and Licensing Board in the above-captioned proceedings is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Cornith Public Library, 1023 Fillmore Street, Cornith, Miss.

Based on the record developed in the public hearing in the above-captioned matter, the Partial Initial Decision modified in certain respects the contents of the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation relating to the proposed construction of the Yellow Creek Nuclear Plant, Unit Nos. 1 and 2.

Pursuant to the provisions of § 51.52(b)(3) of 10 CFR Part 51, the Final Environmental Statement is deemed modified to the extent that the Findings and Conclusions contained in the Partial Initial Decision differ from those contained in the Final Environmental Statement. As required by § 51.52(b)(3) of 10 CFR Part 51, a copy of the Partial Initial Decision, which modifies the Final Environmental Statement, has been transmitted to the Environmental Protection Agency and other interested agencies and persons in accordance with § 51.26(c) of 10 CFR Part 51.

The Partial Initial Decision and the Final Environmental Statement are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Cornith Public Library, 1023 Fillmore Street, Cornith, Miss. Copies of the Final Environmental Statement (Document No. NUREG-0365) may be purchased at \$11.75 for printed copies and \$3 for microfiche, from the National Technical Information Center, Springfield, Va. 22161.

Dated at Bethesda, Md., this 8th day of March 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN,
Chief, Environmental Projects
Branch 2, Division of Site
Safety and Environmental
Analysis.

[FR Doc. 78-6533 Filed 3-13-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE
COMMISSION

[Release No. 20428; (70-6124)]

ALLEGHENY POWER SYSTEM, INC.

**Proposal by Holding Company To Become
Bonded as Surety to a State for Benefit of
Its Subsidiary Company**

MARCH 2, 1978.

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, N.Y. 10022, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 12(b) and 12(f) of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

On November 18, 1977, The Potomac Edison Company ("PE"), a public-utility subsidiary of Allegheny, filed an application for rate increases with the Public Service Commission of West Virginia. Allegheny proposes to become bonded as surety to the State of West Virginia in such amount as shall be determined by the West Virginia Public Service Commission for prompt refund by PE of all amounts PE may collect or receive in excess of such rates and charges as may be finally fixed by said Commission, plus interest at such annual rate as such Commission may determine by order to be necessary and appropriate. The purpose of the proposed transaction is to enable PE, as permitted by West Virginia law, to begin applying the new increased rates prior to completion of the Commission's investigation, hearing, and decision with respect thereto. The amount of the bond and the interest rate are determined by the appropriate West Virginia authority. It is expected that the amount of the bond will not exceed \$7,050,000, which is the estimated additional annual revenue that the new rates will provide.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$2,200. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 3, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be

addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6555 Filed 3-13-78; 8:45 am]

[8010-01]

[Release No. 20433; (70-6122)]

ALLEGHENY POWER SYSTEM, INC., ET AL.

**Notice of Proposed Issuance and Sale of
Common Stock by Subsidiaries and Acquisition
Thereof by Parent Holding Company;
Capital Contributions by Holding Company
to Another Subsidiary**

MARCH 6, 1978.

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, N.Y. 10022, a registered holding company, and three of its public utility subsidiary companies, Monongahela Power Co. ("Monongahela"), 1310 Fairmont Avenue, Fairmont, W. Va. 26554, The Potomac Edison Co. ("Potomac Edison"), Downsville Pike, Hagerstown, Md. 21740, and West Penn Power Co. ("West Penn"), Cabin Hill, Greensburg, Pa. 15601, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9, 10 and 12 of the Act and Rule 50(a)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Monongahela, upon amendment of its charter to increase the number of authorized common shares from 2,960,000 to 3,960,000 shares, proposes to issue and sell from time to time through December 31, 1978, up to

400,000 shares of such stock to Allegheny for total cash consideration of \$20,000,000.

Potomac Edison, upon amendment of its charter to increase the number of authorized common shares from 6,875,000 to 8,125,000 shares, proposes to issue and sell from time to time through December 31, 1978, up to 1,500,000 of such shares to Allegheny for an aggregate cash consideration of \$30,000,000.

Allegheny also proposes to make capital contributions aggregating not more than \$25,000,000 to West Penn through December 31, 1978.

The net proceeds of the issuance and sale of common stock by Monongahela and Potomac Edison and of the cash capital contributions to West Penn will be used by each of them for their respective construction programs. For the year 1978 construction expenditures, in the case of Monongahela are estimated at \$89 million, \$89 million in the case of Potomac Edison, and \$140 million in the case of West Penn.

Allegheny proposes to obtain the additional funds necessary to purchase the aforesaid common stock of Monongahela and Potomac Edison and to make cash capital contributions to West Penn from internal cash generation, authorized short-term borrowings (HCAR No. 20185) and the issuance and sale of such other securities as may be authorized by this Commission and other regulatory authorities having jurisdiction. As of February 1, 1978, Allegheny had no short-term borrowings and no commercial paper outstanding.

The fees, commissions and expenses to be incurred in connection with the proposed transactions are estimated at \$5,500. The issuance of common stock by Monongahela is subject to the jurisdiction of the West Virginia Public Service Commission and the Ohio Public Utilities Commission. The issuance of common stock by Potomac Edison is subject to the jurisdiction of the Maryland Public Service Commission, the Virginia State Corporation Commission and the West Virginia Public Service Commission. The acquisition of the Potomac Edison common stock by Allegheny is subject to the jurisdiction of the Maryland Public Service Commission. The capital contributions to West Penn are considered to be approved by the Pennsylvania Public Utility Commission unless such Commission expressly disapproves the proposed transaction.

Notice is further given that any interested person may, not later than March 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the

Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6556 Filed 3-13-78; 8:45 am]

[8010-01]

[Release No. 34-14536; File No. SR-Amex-78-2]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on January 30, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed amendments to Amex Rule 462 would: 1. Conform the provisions of the Rule to Regulation T by requiring that securities (other than warrants) held by the writer of a call must be immediately convertible into or exchangeable for the security underlying the call option written, without payment of money, in order for the writer's position to be considered free of any margin requirements.

2. Make clear that Amex members may extend "non-purpose" loans (loans for a purpose other than purchasing, carrying or trading in securities) without requiring any margin or collateral deposit.

3. Make clear that Amex members must always obtain initial margin

from their customers at least equal to that required by Regulation T.

The text of the proposed rule change is attached as Exhibit A.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to amend the Exchange's minimum margin requirements to: (a) Conform them to recent changes in Regulation T establishing uniform initial margin requirements for options writing;

(b) Exempt loans extended by member firms to customers for purposes other than purchasing, carrying or trading securities, to the extent permitted by Regulation T; and

(c) Make clear that in cases where initial margin is required, member firms must always obtain initial margin sufficient to satisfy Regulation T.

Amex Rule 462 is proposed to be amended pursuant to sections 6(b)(1) and 7(c) of the Act. Section 6(b)(1) requires that an exchange be able to enforce compliance by its members with the provisions of the Act. Section 7(c) makes it unlawful for an exchange member to extend credit to a customer in contravention of the regulations of the Board of Governors of the Federal Reserve System.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Within thirty-five days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will: (A) By order approve such proposed rule change, or (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submis-

sions should refer to the file number referenced in the caption above and should be submitted on or before April 13, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 7, 1978.

EXHIBIT A—AMERICAN STOCK EXCHANGE, INC.

Rule 462 is amended as indicated below. Brackets [] indicate deleted material, and italics indicates added material.

RULE 462. MINIMUM MARGINS INITIAL MARGIN OR EQUITY

(a) For the purpose of effecting new securities transactions and commitments, the margin deposit shall be either cash equal to the cost of the security purchased, or cash or securities sufficient to reflect an equity in the account of at least \$2,000, except with respect to "when distributed" securities in cash accounts; *provided, however, that in no event shall the margin deposit be less than the amount specified in the regulations of the Board of Governors of the Federal Reserve System.*

Exceptions

(c) The foregoing requirements of this Rule are subject to the following exceptions:

(8) *Non-Purpose Loan Accounts.*—In a non-purpose loan account, a member organization may extend and maintain credit to or for any customer without collateral or on any collateral whatever; *provided:*

(A) The account is recorded separately and confined to the transactions and relations specifically authorized by Regulation T of the Board of Governors of the Federal Reserve System;

(B) The account is not used in any way for the purpose of evading or circumventing any regulation of the Exchange or of the Board of Governors of the Federal Reserve system; and

(C) The amount of any deficiency between the margin deposited by the customer and the margin required by the other provisions of this Rule shall be considered as a debit item in the computation of the net capital of the member organization under the Exchange's capital requirements.

(The term "non-purpose loan" refers to any extension of credit for a purpose other than purchasing or carrying or trading in securities, *except pursuant*

uant to Sections 4(f)(8) and 7(c) of Regulation T.)

other provisions

(d) 2. Puts, Call and Other Options

(G)(1) When a call is issued, guaranteed or carried "short" against an existing net "long" position in an equivalent number of shares of the same underlying security or in any security immediately exchangeable or convertible, *other than warrants*, [within a

reasonable time] without restriction [other than] including the payment of money, into an equivalent number of shares of the underlying security, no margin need be required on the call, provided (1) [(i)] such net "long" position is adequately margined in accordance with this Rule and (2) [(ii)] the right to exchange or convert the net "long" position does not expire on or before the expiration date of the "short" call. [except that where a call is issued, guaranteed or carried "short" against a net "long" position in an exchangeable or convertible security, as outlined above, margin shall be required on the call equal to any amount by which the conversion price of the "long" security exceeds the exercise price of the call.] When a put is issued, guaranteed or carried "short" against an existing net "short" position in an equivalent number of shares of the same underlying security, no margin need be required on the put, provided such net "short" position is adequately margined in accordance with [the] this Rule.

(ii) When a call is issued, guaranteed or carried "short" against an existing net "long" position in a warrant convertible into an equivalent number of shares of the same underlying security, margin shall be required on the call equal to the lesser of (1) the margin required pursuant to subparagraph (C)(ii) of this Paragraph (d)(2), or (2) the amount, if any, by which the conversion price of the "long" warrant exceeds the exercise price of the "short" call, provided such net "long" position is adequately margined in accordance with this Rule and the right to convert the net "long" position does not expire on or before the date of expiration of the "short" call. Such warrant shall have no value for purposes of this Rule.

(iii) In determining net "long" and "short" positions, for purposes of subparagraphs (G)(i) and (ii) above, offsetting "long" and "short" positions in exchangeable or convertible securities (including warrants) or in the same security, as discussed in Paragraphs (c)(1) and (c)(4) of this Rule, shall be deducted. In computing margin on such existing net security position carried against a "short" put or "short" call, the current market price to be used shall not be greater than the exercise [call] price in the case of a call or less than the [put] current market price in the case of a put and the required margin shall be increased by any unrealized loss on the short security position. [when a payment is required to exchange or convert the net "long" security such security shall have no value for purposes of this Rule.]

[FR Doc. 78-6560 Filed 3-13-78; 8:45 am]

[8010-01]

Release No. 14533; (SR-Amex-77-39)

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MARCH 6, 1978.

On January 3, 1978, the American Stock Exchange, Inc., 86 Trinity Place New York, N.Y., filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would re-

scind Amex Rule 182. That provision requires Amex members who specialize in securities admitted to dealings on the Amex pursuant to unlisted trading privileges to deposit with the Exchange, in a nominee account, at least one share (or other designated unit) of every such issue.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14358, January 9, 1978) and by publication in the FEDERAL REGISTER (43 FR 4295, February 1, 1978).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEOFFREY A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6557 Filed 3-13-78; 8:45 am]

[8010-01]

[Release No. 34-14537; File No. SR-Amex-77-41]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the Act), 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on January 3, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the Amex) proposes to amend Rule 470 as described below. Brackets indicate deletions; italics indicate new material.

(d) A member who acts as a floor broker on the Exchange and places funds in escrow with an independent agent for the purpose of satisfying the elective financial responsibility requirements of SEC Rule 15c3-1(b)(2) shall provide in the escrow agreement with such agent that, upon transfer of the floor broker's membership, the funds held in escrow shall be turned over to the Exchange by the escrow agent, and that the Exchange is autho-

rized to treat such funds in all respects the same as the proceeds obtained upon the transfer of such membership, to be distributed in accordance with the provisions of, and subject to the payment of claims filed pursuant to, Article IV, Section 4(d) of the Exchange Constitution. The escrow agreement shall be in a form approved by the Exchange, and a copy thereof shall be filed with the Exchange promptly upon entering into such agreement.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to conform Amex Rule 470 to the requirements of SEC Rule 15c3-1(b)(2) to enable Amex floor brokers to elect to be covered by the special financial responsibility standard set forth therein.

Rule 470 is proposed to be amended to conform Amex requirements to those of the SEC Uniform Net Capital Rule and is consistent with Section 6(b)(5) of the Act.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street SW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 13, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 7, 1978.

[FR Doc. 78-6559 Filed 3-13-78; 8:45 am]

[8010-01]

[Release No. 20432; (70-5840)]

MIDDLE SOUTH UTILITIES, INC.

Post-Effective Amendment Regarding Issuance and Sale of Common Stock Pursuant to a Dividend Reinvestment and Stock Purchase Plan

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, La. 70112, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(1) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

By order in this proceeding dated May 20, 1976 (HCAR No. 19538), Middle South was authorized to issue and sell from time to time through June 30, 1981, a maximum of 1,000,000 shares of its authorized but unissued common stock, \$5 par value, ("Additional Stock"), pursuant to a Dividend Reinvestment and Stock Purchase Plan ("Plan"). Middle South has issued and sold 281,392 of the 1,000,000 shares so authorized.

In order to encourage investment in the Plan, Middle South now proposes to amend the Plan to (1) allow investment of all or a portion rather than exclusively all of the dividends declared and paid on a participant's common stock, (2) provide for monthly rather than exclusively quarterly investments of optional cash payments, subject to the existing limitation of not less than \$25 per payment nor more than \$5,000 per quarter, (3) facilitate participation, by special authorization form, in the Plan by record holders on behalf of certain beneficial owners who have not been able to participate due to legal requirements relating to possession of assets, including securities holdings, and (4) remove the requirement that optional cash payments be applied to the purchase of Additional Stock only to the extent that Additional Stock is offered to and not purchased by holders of shares of common stock with their cash dividends. The restriction discussed in (4) is no longer necessary

because the shareholders of Middle South at its 1977 Annual Meeting approved an exclusion from the preemptive rights provision in Middle South's Restated Articles of Incorporation for an offering pursuant to a dividend reinvestment and stock purchase plan open to all shareholders.

The amended declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. Middle South has requested that the issuance and sale of the Additional Stock be excepted from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof.

Notice is further given that any interested person may, not later than March 31, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6558 Filed 3-13-78; 8:45 am]

[8010-01]

[Rel. No. 20437; (70-6132)]

AMERICAN ELECTRIC POWER COMPANY, INC.

Notice of Proposal by Holding Company To Act as Surety for Subsidiary Company

MARCH 8, 1978.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), 2 Broadway, New York, N.Y. 10004, a

registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

AEP proposes to act as surety for its electric utility subsidiary company, Appalachian Power Co. ("Appalachian"), in connection with a certain Appalachian rate proceeding now pending before the Public Service Commission of West Virginia ("state commission"). On September 12, 1977, Appalachian filed with the state commission new increased rates for electric service in West Virginia. By orders dated October 7, and November 10, 1977, the state commission suspended the increased rates until March 15, 1978, subject to the posting by Appalachian of an appropriate bond to assure the making of appropriate refunds to its customers in the event the state commission's final order in the rate proceeding should require refunds to be made. The state commission has indicated that it would permit AEP to become a surety for Appalachian in lieu of Appalachian's posting of the said bond.

The purpose of the proposed transaction is to enable Appalachian, as permitted by West Virginia law, to begin applying the new increased rates prior to completion of the state commission's investigation, hearing and decision with respect thereto. It is expected that the amounts of the bond for the new increased rates will not exceed \$85,000,000, which is equal to the estimated additional annual revenue that the new increased rates will provide. In the event that the amount of the bond ordered by the state commission should exceed this amount, AEP will not execute the statutory bond until this Commission has issued a further order with respect thereto. It is desired to consummate the proposed transaction in order that Appalachian might save the cost of obtaining the statutory bond, which is estimated to cost approximately \$65,000 annually.

The fees and expenses to be paid, including legal fees, are estimated as not to exceed \$2,500. It is stated that aside from the state proceeding described herein, no state commission and no federal commission, other than this Commission has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 31, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the rea-

sons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated, under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6619 Filed 3-13-78; 8:45 am]
[File No. 500-1]

**NEW YORK-NEW HAVEN AND HARTFORD R.R.
CO., ET AL.**

Suspension of Trading

In the matter of trading in Securities of New York-New Haven and Hartford Railroad Co., Boston and Albany Railroad Co., Carthage and Adirondack Railroad Co., Cleveland-Cincinnati-Chicago & St. Louis Railway Co., Cleveland & Pittsburgh Railroad Co., Connecting Railway Co., Delaware Railroad Co., Erie & Pittsburgh Railroad Co., Kanawha & Michigan Southern Railroad Co., Lake Shore & Michigan Southern Railroad Co., Little Miami Railroad Co., Mahoning Coal Railroad Co., Michigan Central Railroad Co., Mohawk & Malone Railroad Co., New York Central Railroad Co., New York Central & Hudson River Railroad Co., New York Connecting Railroad Co., New York & Harlem Railroad Co., New York & Putnam Railroad Co., Northern Central Railway Co., Penn Central Co., Penn Central Transportation Co., Pennsylvania Railroad Co., Peoria & Eastern Railway Co., Philadelphia, Baltimore & Washington Railroad Co., Philadelphia & Trenton Railroad Co., Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co., Pittsburgh, Fort Wayne & Chicago Railway Co., Pittsburgh, Youngtown & Ashtabula

Railway Co., United New Jersey Railroad & Canal Co., and West Shore Railroad Co.

MARCH 8, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of the above-named issuers being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. (EST) on March 8, 1978 through March 17, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6618 Filed 3-13-78; 8:45 am]

[8010-01]

[Rel. No. 14535; (SR-NYSE-77-21)]

NEW YORK STOCK EXCHANGE, INC.

**Order Approving Certain Provisions of a
Proposed Rule Change**

**I. DESCRIPTION OF THE NYSE PROPOSED
RULE CHANGE**

On August 1, 1977, the New York Stock Exchange, Inc. ("NYSE") filed 11 Wall Street, New York, N.Y. 10005, pursuant to Section 19(b)(1) of the Securities Exchange Act (the "Act")¹ and Rule 19b-4 thereunder,² Copies of a proposed rule change³ Which, among other things, would make available two forms of "annual membership" as an alternative to ownership of one of a limited number of seats on the NYSE. The proposed memberships would enable qualified broker-dealers to: (1) gain electronic and telephonic access to the NYSE floor (herein referred to as "electronic access" membership),⁴ and (2) in addition to electronic access, maintain physical presence and facilities on the NYSE trading floor ("physical presence annual membership").⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposed rule change was noticed in Securities Exchange Act Release No. 13882 (August 22, 1977) and published in 42 FR 44052 (September 1, 1977). No comments were received on the proposal.

⁴ Electronic access, under the proposal, would extend to: (i) the floor facilities of a member, member firm, or member corporation, (ii) the Designated Order Turnaround System of the Exchange, and (iii) such automated trading systems of the Exchange as the Board of Directors may from time to time determine.

⁵ A physical presence member would be eligible to function as a specialist, registered trader or floor broker, assuming that he met those criteria which regular seaholders are required to meet to engage in any of those activities.

Electronic access members, under the proposed rule change, would pay to the NYSE minimum annual dues of \$13,500; physical presence members would pay a minimum of \$25,000. Annual members, unlike seaholders, would have no ownership interest in the assets of the NYSE nor any transferable interest in their membership. Further, the voting rights of annual members would not be coextensive with those of regular seaholders—annual members would have no vote on any amendment to certain enumerated provisions of the NYSE Constitution which demarcate the rights, privileges or limitations of annual membership. Moreover, annual members would have no vote on any proposed disposition of the NYSE's assets (e.g., liquidation) or upon a merger or consolidation. Finally, annual members would not vote on any matter concerning the NYSE's Gratuity Fund, since they would have no interest therein. As to all other matters on which regular seaholders would vote (including selection of the NYSE Board of Directors), annual members would be entitled to vote. A physical presence member would have a full vote; an electronic access member, however, would have only a one-half vote.

The proposal also contains other provisions which the Commission has previously addressed.⁶

The Commission believes it important to note that the NYSE proposed rule change does not provide that annual membership would constitute the exclusive basis by which a person who does not own or lease a seat may obtain direct communications access to NYSE members on the floor. Further, the Commission notes that no existing NYSE rule or stated policy requires membership as a prerequisite to the establishment of direct communications links to any particular NYSE member on the floor. Thus, under existing NYSE rules, as amended by the

⁶ These provisions relate to establishment of an "options market maker" annual membership and authorize regular NYSE members to lease their seats. The opinions market maker provisions prompted the Commission to include SR-NYSE-77-21 in the order instituting a consolidated disapproval proceeding with respect to various self-regulatory organizations' proposed rule changes which would expand existing programs for trading standardized options or would initiate new programs for such trading. Securities Exchange Act Release No. 14057 (October 17, 1977), 42 FR 56711 (October 27, 1977). The seat leasing aspects of the proposal were approved by the Commission in Securities Exchange Act Release No. 14256 (December 12, 1977), 42 FR 63974 (December 21, 1977).

Accordingly, this order addresses only those provisions of the proposed rule change concerning physical presence and electronic access annual membership.

instant proposal, electronic access membership should not be viewed as the exclusive means by which non-members may obtain direct communications access to the NYSE floor.

The NYSE, of course, may in the future submit to the Commission a proposal under section 19(b)(2) of the Act to establish the principle that direct communications access to the floor may be made available only to those who possess some form of membership in the exchange, and the Commission will consider any such proposal in light of the standards of the Act.⁷ We note that the NYSE has declined to provide us with a new rule or an interpretation of existing rules concerning non-member communications access to the floor and suggest that the NYSE make an appropriate filing under section 19(b) of the Act to clarify this matter. Absent Commission approval of such a rule or interpretation, however, non-members who wish to forego the opportunity to become electronic access annual members (and thereby, among other things, forego access to the NYSE's "Designated Order Turnaround" system and any other automated trading system which the NYSE may offer) may continue to pursue the alternative of negotiating with an NYSE floor member for direct communication links to that member on the floor.⁸

II. COMMISSION FINDINGS

The Commission finds that the provisions in SR-NYSE-77-21 to establish annual physical presence and electronic access memberships and other related provisions are consistent with the provisions of the Act and the rules and regulations thereunder, particularly section 6(b)(5) of the Act. That section requires that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free

⁷In this connection, the Commission wishes to point out that the views expressed in this release as to the scope of existing NYSE rules are not intended to reflect a determination as to whether any proposal by the NYSE to amend its existing rules or to adopt new rules, that would permit only members to gain direct communications access to its floor members, would be consistent with the Act. The Commission today reserves judgment on the merits of any such proposal.

⁸Absent a rule setting forth an exchange's self-regulatory authority to govern the right of its members to provide direct communications access to their non-member customers, or an effective interpretation of existing rules to that end, denial of such access would be beyond the bounds of the exchange's authority and could thereby constitute an unreasonable restraint of trade. See *Silver v. New York Stock Exchange, Inc.*, 373 U.S. 341 (1963). Moreover, under Section 19(d) of the Act, any such action would be reviewable by the Commission upon its own motion or upon the motion of an aggrieved person.

and open market. In making available electronic access and physical presence annual memberships, this proposed rule change provides one means of increasing access to most or all of the range of benefits (and obligations) attendant upon ownership of an NYSE seat (historically limited in number).

Although their voting rights would not be coextensive with those of regular seatholders, annual members would be accorded fair representation in the selection of directors and administration of the NYSE's affairs. In offering a form of temporary membership not conveying any ownership interest in its assets, the NYSE may properly reserve to regular seatholders the vote on such matters as a disposition of the NYSE's assets.

As to the provision to preclude NYSE annual members from voting upon any amendment to the NYSE Constitution relating to the rights, privileges or limitations of annual membership, it is pertinent to note that annual members, upon expiration of their memberships, would have no unalterable claim to acquire future memberships which confer precisely the same rights and privileges as earlier memberships.⁹

Finally, the dues to be assessed upon annual members appear, on their face, to be reasonable and equitably allocated in accordance with Section 6(b)(4) of the Act. The Commission believes that the ultimate test of "reasonableness," however, will be provided by response of the market. Because alternative means of membership in, and access to, the NYSE exist—e.g., purchase or lease of a seat or negotiating private communication links to a floor broker—the Commission does not believe it necessary to subject these annual membership dues to a more rigorous *a priori* determination of reasonableness as might otherwise be called for.¹⁰

⁹Any amendment to the NYSE Constitution, of course, constitutes a "proposed rule change" of the NYSE under section 19(b) of the Act and, accordingly, must be filed with, and approved by, the Commission in order to become effective. In this regard, the Commission points out that any proposed constitutional amendment to limit the rights or privileges of then current annual members would raise questions as to the fair representation and unfair discrimination provisions of the Act, and may be subject to disapproval by the Commission on those, as well as perhaps other, grounds.

¹⁰It should be noted that the proposed rule change proposes only a minimum level of annual membership dues. If the NYSE proposes to assess dues higher than the minimum, an additional proposed rule change must, of course, be filed with the Commission under section 19(b)(3)(A) of the Act and that proposal would be subject to the abrogation authority of the Commission conferred under that section.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change, insofar as its provisions pertain to the establishment of annual memberships in the NYSE and other related provisions, be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6620 Filed 3-13-78; 8:45 am]

[8010-01]

[Release No. 34-14539; File No. SR-Amex-78-4]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78x(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 2, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Amex proposes to amend its Rule 110 to eliminate special initial and maintenance capital requirements for Registered Traders in equities.

The text of the proposed rule change is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to eliminate special capital requirements for Registered Traders in equities, in view of the fact that these Registered Traders are required to comply with the parallel capital requirements imposed by the SEC's uniform net capital rule (Rule 15c3-1). In addition, elimination of the special capital requirements will maximize the potential for competition in the Amex's markets.

Amex Rule 110 is proposed to be amended pursuant to sections 6(b)(5)

¹¹Amendments (including redesignation of certain existing provisions) to the NYSE Certificate of Incorporation and Constitution which were proposed in the NYSE rule change filing and which are hereby approved are as follows: NYSE Certificate of Incorporation, Paragraphs 8 and 13; NYSE Constitution, Article VII, Sections 1, 2, 4, 8, 9, 10(a), (b), and (c) (exclusive of the reference to "Section 1(d) of Article IX"), and 12; Article IX, Sections 1 (a), (b), and (c), 3, 4, 5, 6(a), 7, 8, 9, 10, and 11; Article X, Sections 1 (b) and (c); Article XI, Sections 4, 5 (a), (b), and 6; Article XVII, Section 1; and Article XX, Sections 1, 3, 5, and 6.

and (8) of the Securities Exchange Act of 1934 (the "Act"). Section 6(b)(5) requires the rules of an exchange to be designed to remove impediments to a free and open market. Section 6(b)(8) requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment of Rule 110 would comply with these requirements by (a) broadening access to the Amex's markets, (b) facilitating an increase in competition in the Amex's markets, and (c) eliminating a burden on competition which, in light of the SEC's uniform net capital rule, is no longer necessary.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before April 18, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 4, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 7, 1978.

AMERICAN STOCK EXCHANGE, INC.

Rule 110 of the American Stock Exchange is proposed to be amended as indicated below. Brackets [] indicate deleted material, and *italics* indicate added material.

RULE 110. Registered Traders

(c) In addition to such capital as Exchange requirements may prescribe for his other activities, a Registered Trader *eligible to trade in options only* (a "Registered Options Trader") shall meet an initial minimum capital requirement [in the amounts specified below] of \$25,000 and at all times thereafter shall meet the minimum capital maintenance requirement [in the amounts specified below] of \$15,000.¹

	[Initial minimum capital]	[Minimum capital maintenance requirement]
[Eligible to trade in all securities.....]	\$75,000	\$52,000
[Eligible to trade in options only.....]	25,000	15,000

No capital shall be withdrawn by a Registered Options Trader if such withdrawal would reduce the value of his account to an amount less than the applicable initial minimum capital required.

(d) If a Registered Options Trader [shall fail to comply with the initial minimum capital requirement specified in paragraph (c) of this Rule, or] shall at any time fail to comply with the applicable minimum capital maintenance requirement specified in [said] paragraph (c), his registration as a Registered Options Trader shall be automatically suspended, and he shall immediately notify the Secretary of the Exchange in writing of his failure so to comply. Such suspension shall continue until and unless his registration as a Registered Options Trader has been reinstated by the Exchange.

* * * Commentary

.01 A Registered Trader, [(1) other than a Registered Options Trader, [eligible to trade in options]] must [also] comply with the capital requirements prescribed by Rule 470, including the requirements of Rule 15c3-1 promulgated under the Securities Exchange Act of 1934.

[FR Doc. 78-6621 Filed 3-13-78; 8:45 am]

¹NOTE.—A proposed rule change reducing these capital requirements to \$15,000 and \$10,000 respectively is currently pending before the Commission. See, SR-Amex-77-23.

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ARTICLES THAT MAY BE CONSIDERED FOR MODIFICATION OR CONTINUANCE OF UNITED STATES DUTIES OR ADDITIONAL DUTIES

1. In conformity with section 131 of the Trade Act of 1974 (19 U.S.C. 2151), notice is hereby given of articles that may be considered for modification or continuance of United States duties, or additional duties. These articles are set forth in List I and List II below.

2. Some of the articles in List I and parts of some of the items in List II (those that are marked with an asterisk) currently are subject to import relief provided initially pursuant to section 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1981) and extended pursuant to section 203(h)(3) of the Trade Act of 1974 (19 U.S.C. 2253 (h)(3)). In accordance with section 127 (b) of the Trade Act of 1974 (19 U.S.C. 2137), the President is reserving such articles, or parts of items, from international Trade negotiations as long as any import relief action is in effect with respect to them. This notice of the possible future consideration of such articles or parts of items in international trade negotiations, and the request for advice of the U.S. International Trade Commission referred to in paragraph 3 below, are being given to prepare for the possibility of negotiations with respect to them should the import relief action terminate.

3. The U.S. International Trade Commission is being requested to furnish its advice, pursuant to section 131 of the Trade Act of 1974, as to the probable economic effects of (a) modifications or continuances of existing import duties for the articles in List I; and (b) increases in existing duties, incidental to modifications in the tariff nomenclature, for the items in List II.

ROBERT S. STRAUSS,
Special Representative for
Trade Negotiations.

LIST I

Articles which will be considered for modification or continuance of the existing¹ United States duties, or additional duties, to the extent permitted by sections 101(a), 101(b), 101(c), and 109 of the Trade Act.

¹The term "existing" is used herein as defined in section 601(7) of the Trade Act: "The term 'existing' means (A) when used, without the specification of any date, with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this Act, existing on the day on which such trade agreement is entered into or such other action is taken; and (B) when used with respect to a rate of duty (however established, and even though

(Continued)

TSUS item and articles*

Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients: Of fine-grained earthenware (except articles provided for in items 533.14 and 533.16 of the Tariff Schedules of the United States) or of fine-grained stoneware.

Available in specified sets

533.28 pt.—In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedules of the United States is over \$12 but not over \$22.

Not available in specified sets

533.31 pt.—Steins and mugs, if valued not over \$3.60 per dozen.

Other articles

533.33 pt.—Cups valued not over \$0.50 per dozen; saucers valued not over \$0.30 per dozen; plates not over 9 inches in maximum diameter and valued not over \$0.50 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued not over \$1 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued not over \$1 per dozen.

533.35 pt.—Cups valued over \$0.50 but not over \$1 per dozen; saucers valued over \$0.30 but not over \$0.55 per dozen; plates not over 9 inches in maximum diameter and valued over \$0.50 but not over \$0.90 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over \$1 but not over \$1.55 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued over \$1 but not over \$2 per dozen.

533.36 pt.—Cups valued over \$1 but not over \$1.70 per dozen; saucers valued over \$0.55 but not over \$0.95 per dozen; plates not over 9 inches in maximum diameter and valued over \$0.90 but not over \$1.55 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over \$1.55 but not over \$2.65 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued over \$2 but not over \$3.40 per dozen.

533.38 pt.—Cups valued over \$1.70 but not over \$3.10 per dozen; saucers valued over \$0.95 but not over \$1.75 per dozen; plates not over 9 inches in maximum diameter and valued over \$1.55 but not over \$2.85 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over \$2.65 but not over \$4.85 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles

valued over \$3.40 but not over \$6.20 per dozen.

Of nonbone chinaware or of subporcelain

Household ware not covered by item 533.63, 533.65, 533.66, 533.68, or 533.69 of the Tariff Schedules of the United States.

533.71 pt.—Steins and mugs, if valued not over \$3.60 per dozen.

Other articles

533.73 pt.—Cups valued not over \$1.35 per dozen; saucers valued not over \$0.90 per dozen; plates not over 9 inches in maximum diameter and valued not over \$1.30 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued not over \$2.70 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butterdishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued not over \$4.50 per dozen.

533.75 pt.—Cups valued over \$1.35 but not over \$4 per dozen; saucers valued over \$0.90 but not over \$1.90 per dozen; plates not over 9 inches in maximum diameter and valued over \$1.30 but not over \$3.40 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over \$2.70 but not over \$6 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued over \$4.50 but not over \$11.50 per dozen.

LIST II

Articles which may be considered for increases in existing duties, to the extent permitted by sections 101(a) and 101(c) of the Trade Act, incidental to modifications in the tariff nomenclature.

TSUS item and articles

Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients.

533.11—Of coarse-grained earthenware, or of coarse-grained stoneware. Of fine-grained earthenware, whether or not decorated, having a reddish-colored body and a lustrous glaze which, on teapots, may be any color, but which, on other articles, must be mottled, streaked, or solidly colored brown to black with metallic oxide or salt.

533.14—Valued not over \$1.50 per dozen articles.

533.16—Valued over \$1.50 per dozen articles. Of fine-grained earthenware (except articles provided for in items 533.14 and 533.16) or of fine-grained stoneware.

Available in specified sets

533.23—In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedules of the United States is not over \$3.30.

533.25—In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedules of the United States is over \$3.30 but not over \$7.

533.26—In any pattern for which the aggregate value of the articles listed in head-

*These articles are currently subject to import relief provided initially pursuant to section 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1981) and extended pursuant to section 203(h)(3) of the Trade Act of 1974 (19 U.S.C. 2253(h)(3)).

note 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedules of the United States is over \$7 but not over \$12.

533.28—In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedules of the United States is over \$12.

Not available in specified sets

533.31—Steins, mugs, candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, and bonbon dishes.

Other articles

533.33—Cups valued not over \$0.50 per dozen, saucers valued not over \$0.30 per dozen, plates not over 9 inches in maximum diameter and valued not over \$0.50 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued not over \$1 per dozen, and other articles valued not over \$1 per dozen.

533.35—Cups valued over \$0.50 but not over \$1 per dozen, saucers valued over \$0.30 but not over \$0.55 per dozen, plates not over 9 inches in maximum diameter and valued over \$0.50 but not over \$0.90 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over \$1 but not over \$1.55 per dozen, and other articles valued over \$1 but not over \$2 per dozen.

533.36—Cups valued over \$1 but not over \$1.70 per dozen, saucers valued over \$0.55 but not over \$0.95 per dozen, plates not over 9 inches in maximum diameter and valued over \$0.90 but not over \$1.55 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over \$1.55 but not over \$2.65 per dozen, and other articles valued over \$2 but not over \$3.40 per dozen.

533.38—Cups valued over \$1.70 per dozen, saucers valued over \$0.95 per dozen, plates not over 9 inches in maximum diameter and valued over \$1.55 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over \$2.65 per dozen, and other articles valued over \$3.40 per dozen.

533.41—Of bone chinaware.

Of nonbone chinaware or of subporcelain

533.51—Hotel or restaurant ware and other ware not household ware.

Household ware available in specified sets

533.63—In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedule of the United States is not over \$10.

533.65—In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedule of the United States is over \$10 but not over \$24.

533.66—In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedule of the United States is over \$24 but not over \$56.

533.68—In any pattern for which the aggregate value of the articles listed in head-

*Part of this item is currently subject to import relief provided initially pursuant to section 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1981) and extended pursuant to section 203(h)(3) of the Trade Act of 1974 (19 U.S.C. 2253(h)(3)).

(Continued)

temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of the schedules 1 through 7 of the Tariff Schedules of the United States on the date specified or (if no date is specified) on the day referred to in clause (A)."

*Tariff Schedules of the United States (19 U.S.C. 1202).

note 2(b) of subpart C, part 2 of schedule 5 of the Tariff Schedule of the United States is over \$56.

533.69—Not covered by item 533.63, 533.65, 533.66, or 533.68, and in any pattern for which the aggregate value of the articles listed in headnote 2(c) of subpart C, part 2 of schedule 5 of the Tariff Schedule of the United States is over \$8.

Household ware not covered by item 533.63, 533.65, 533.66, 533.68, or 533.69:

533.71—Steins, mugs, candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, and bonbon dishes.

Other articles

533.73*—Cups valued not over \$1.35 per dozen, saucers valued not over \$0.90 per dozen, plates not over 9 inches in maximum diameter and valued not over \$1.30 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued not over \$2.70 per dozen, and other articles valued not over \$4.50 per dozen.

533.75*—Cups valued over \$1.35 but not over \$4 per dozen, saucers valued over \$0.90 but not over \$1.90 per dozen, plates not over 9 inches in maximum diameter and valued over \$1.30 but not over \$3.40 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over \$2.70 but not over \$6 per dozen, and other articles valued over \$4.50 but not over \$11.50 per dozen.

533.77—Cups valued over \$4 per dozen, saucers valued over \$1.90 per dozen, plates not over 9 inches in maximum diameter and valued over \$3.40 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over \$6 per dozen, and other articles valued over \$11.50 per dozen.

[FR Doc. 78-6516 Filed 3-13-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[Amdt. to Delegation of Authority No. 98]

DEPUTY ADMINISTRATOR AND ASSISTANT ADMINISTRATORS

Delegation of Authority

Pursuant to the authority delegated to me by delegation of authority No. 104 of November 3, 1961, as amended, from the Secretary of State (25 FR 10608) and in accordance with the provisions of section 624(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384), it is directed as follows:

In the event of the absence, death, resignation, or disability of the Administrator, the following designated officers of the Agency for International Development shall, in the order of succession indicated, act as Administrator:

- (1) Deputy Administrator.
- (2) Assistant Administrator, Bureau for Program and Policy Coordination.
- (3) Assistant Administrator, Bureau for Intragovernmental and International Affairs.
- (4) Assistant Administrator, Bureau for Program and Management Services.

(5) Assistant Administrator, Bureau for Latin America.

(6) Assistant Administrator, Bureau for Near East.

(7) Assistant Administrator, Bureau for Asia.

(8) Assistant Administrator, Bureau for Africa.

(9) Assistant Administrator, Bureau for Development Support.

(10) Assistant Administrator, Bureau for Private and Development Cooperation.

(11) Assistant Administrator, Bureau for Legislative Affairs.

This delegation of authority amends and supersedes delegation of authority No. 98 of April 28, 1977 (42 FR 22966 and 22967, May 5, 1977).

This delegation of authority is effective immediately.

Dated: March 1, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-6519 Filed 3-13-78; 8:45 am]

[4710-01]

[Public Notice CM-8/20]

ADVISORY PANEL ON CLASSICAL MUSIC OF THE ADVISORY COMMITTEE ON MUSIC

Meeting

Pursuant to Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Classical Music has scheduled a meeting to be held on Monday, April 3, in Room 507 at State Annex 2, Department of State, 515 22nd Street NW., Washington, D.C. The meeting hours will be from 9:45 a.m. to 12:30 p.m. and from 2 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

- (1) Review of program policies and guidelines;
- (2) Review of recent overseas tours in the music field sponsored by the Department of State;
- (3) Evaluation of tapes and records of musicians and music groups planning tours abroad, and groups which wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before March 31; the telephone number is 202-632-2846.

The meeting room has a seating capacity of 30, so the public will be admitted on a first-come, first-served basis.

Dated: March 3, 1978.

PAUL E. WHEELER,
Director, Office of
International Arts Affairs.

[FR Doc. 78-6554 Filed 3-13-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RFA-ERSA-78-1; Notice 1]

GUARANTEE OF TRUSTEE CERTIFICATES

Intention to Make Findings

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of intention to make findings under the Emergency Rail Services Act of 1970 ("Act") (45 U.S.C. 661 et seq.).

SUMMARY: The Trustee of the property ("Trustee") of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. ("Milwaukee") has applied to the Secretary of Transportation ("Secretary") for a guarantee, extended under the authority of subsection 3(a) of the Act, of trustee certificates in the principal amount of \$5.1 million. Pursuant to subsection 3(a), the Federal Railroad Administrator ("Administrator"), as delegate of the Secretary, after consultation with the Interstate Commerce Commission ("ICC"), is authorized to guarantee such certificates upon making six written findings. As required by subsection 3(a), the Administrator hereby gives notice of his intention to make such findings and invites all interested persons, including Federal agencies, to submit written data, views or arguments concerning that intention.

DATE: The comment period will close on March 29, 1978.

ADDRESS: All written comments should be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration ("FRA"), 400 7th Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

William E. Loftus, Director, Office of National Freight Assistance Programs, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, 202-426-9657.

SUPPLEMENTARY INFORMATION: On December 19, 1977, the Milwaukee filed for reorganization under section 77 of the Bankruptcy Act. On February 21, 1978, the Trustee submitted an application to the FRA seeking a guarantee by the Administrator pursuant to the Act of trustee certificates in the principal amount of \$5.1 million. The funds derived from the sale of the

guaranteed certificates would be used solely for meeting payroll and other expenses which, if not met, would preclude continued provision of essential transportation services by the Milwaukee.

Pursuant to subsection 3(a) of the Act, the Administrator, after consultation with the ICC, is authorized to guarantee trustee certificates of any railroad undergoing reorganization under section 77 of the Bankruptcy Act upon making the following written findings:

(1) Cessation of essential transportation services by the Milwaukee would endanger the public welfare;

(2) Cessation of such services is imminent;

(3) There is no other practicable means of obtaining funds to meet payroll and other expenses necessary to provide such services than the issuance of such certificates;

(4) Such certificates cannot be sold without a guarantee;

(5) The Milwaukee can reasonably be expected to become self-sustaining; and

(6) The probable value of the assets of the Milwaukee in the event of liquidation provides reasonable protection to the United States.

Pursuant to 49 CFR 1.49(m), the Secretary has delegated his authority under the Act to the Administrator of FRA. The Administrator is authorized to make the required findings not less than fifteen days after publication of this notice.

COMMENTS: Interested persons are invited to submit written data, views or arguments concerning the Administrator's intention to make the aforementioned findings. All written comments should indicate the docket number shown above.

INSPECTION: Copies of all written comments received will be available for examination by interested persons in Room 5101, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. between the hours of 9 a.m. and 5:30 p.m. on Mondays through Fridays with the exception of Federal holidays.

Dated: March 9, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-6540 Filed 3-13-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby

given that meetings of the Veterans Administration Wage Committee will be held on: Thursday, April 6, 1978, Thursday, April 20, 1978, Thursday, May 4, 1978, Thursday, May 18, 1978, Thursday, June 1, 1978, Thursday, June 15, 1978, and Thursday, June 29, 1978.

The meetings will convene at 2:30 p.m. and will be held in Room 1175A, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom. Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue NW., Washington, D.C.

Dated: March 8, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-7552 Filed 3-13-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 609]

ASSIGNMENT OF HEARINGS

MARCH 9, 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 97310 (Sub-No. 25), Sharron Motor Lines, Inc., is now assigned for prehearing conference May 1, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 921 (Sub-No. 22M1), Dean Truck Line, Inc., is now assigned for prehearing conference May 1, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 77972 (Sub-No. 30), Merchants Truck Line, Inc., is now assigned for prehearing conference May 1, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 99610 (Sub-No. 27), Ross Neely Express, Inc., is now assigned for prehearing conference May 1, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 116110 (Sub-No. 18), P. C. White Truck Line, Inc., is now assigned for prehearing conference May 1, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 84728 (Sub-No. 64), Safeway Trails, Inc., now assigned March 14, 1978, at Atlantic City, N.J., is cancelled.

No. 38095, Investigation into Lawfulness of Off Line Limitations Placed on Non Assigned Hopper Cars, now assigned for continued hearing on March 15, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 109533 (Sub-No. 88), Overnite Transportation Company, now assigned April 11, 1978, at Salisbury, Md., will be held at the Sheraton Hotel, 300 South Salisbury Boulevard.

MC 4405 (Sub-No. 561), Dealers Transit, Inc. and MC 4405 (Sub-No. 567), Dealers Transit, Inc., now assigned April 13, 1978, at Dallas, Tex. are postponed indefinitely.

MC 116915 (Sub-No. 32), Eck Miller Transportation Corporation, now being assigned May 16, 1978, at Dallas, Tex. (1 day), in a hearing room to be later designated.

MC 115841 (Sub-No. 550), Colonial Refrigerated Transportation, Inc., now being assigned May 17, 1978 (3 days), at Dallas, Tex., in a hearing room to be later designated.

MC 116915 (Sub-No. 30), Eck Miller Transportation Corporation, now being assigned May 22, 1978 (1 day), at Dallas, Tex. in a hearing room to be later designated.

MC 36747, Armco Steel Corporation v. The Atchison, Topeka and Santa Fe Railway Company, et al., now being assigned May 23, 1978 (3 days), at Dallas, Tex. in a hearing room to be later designated.

MC 142831 (Sub-No. 5), Hamric Transportation Inc., now being assigned May 26, 1978 (1 day), at Dallas, Tex. in a hearing room to be later designated.

MC 106398 (Sub-No. 777), National Trailer Convoy, Inc.; MC 73165 (Sub-No. 413), Eagle Motor Lines, Inc.; MC 103993 (Sub-No. 901), Morgan Drive-Away, Inc.; MC 124947 (Sub-No. 63), Machinery Transports, Inc.; MC 61592 (Sub-No. 407), Jenkins Truck Lines, Inc.; MC 95876 (Sub-No. 206), Anderson Trucking Service, Inc.; MC 119656 (Sub-No. 35), North Express, Inc.; MC 114552 (Sub-No. 141), Senn Trucking Company; MC 43867 (Sub-No. 35), A. Leander McAllister Trucking Company; MC 108341 (Sub-No. 72), Moss Trucking Company; MC 123407 (Sub-No. 400), Sawyer Transport, Inc.; MC 115498 (Sub-No. 70), Lumber Transport, Inc.; MC 59150 (Sub-No. 109), Ploof Truck Lines, Inc.; MC 60014 (Sub-No. 59), Aero Trucking, Inc.; MC 116915 (Sub-No. 39), Eck Miller Transportation Corp.; MC 109397 (Sub-No. 373), Tri-State Motor Transit Co.; MC 119522 (Sub-No. 35), McLain Trucking, Inc.; MC 139615 (Sub-No. 9), D.R.S. Transport, Inc.; MC 115311 (Sub-No. 258), J & M Transportation Co., Inc.; MC 107678 (Sub-No. 65), Hill & Hill Truck Line, Inc.; MC 138144 (Sub-No. 25), Fred Olson Co., Inc.; MC 142059 (Sub-No. 15), Cardinal Transport, Inc. and MC 95876 (Sub-No. 226) are now assigned for hearing July 18, 1978 at the offices of the Interstate Commerce Commission, Washington, D.C.

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

[FR Doc. 78-6597 Filed 3-13-78; 8:45 am]

[7035-01]

[Amtd. No. 1 to Exemption No. 145]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To all railroads: Upon further consideration of Exemption No. 145 issued February 17, 1978.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 145 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire March 17, 1978.

This amendment shall become effective March 3, 1978.

Issued at Washington, D.C., March 2, 1978.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-6598 Filed 3-13-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 9, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before March 29, 1978.

FSA No. 43514, Seaspeed Services' No. 5, on intermodal rates on general commodities, from rail carrier's terminals at ports on the U.S. Pacific Coast, by way of Houston, Tex., to ports in the Middle East, in its tariff No. 1, I.C.C. No. 1, to become effective April 5, 1978. Grounds for relief—water competition.

By the Commission.

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

[FR Doc. 78-6594 Filed 3-13-78; 8:45 am]

[7035-01]

[Notice No. 25TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 27, 1978.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 574TA), filed December 23, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, synthetic cheese, and materials and supplies* used in their manufacture from points in WI to points in Barry, Jasper, Lawrence and Newton Counties, MS, and points in OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. D. Schreiber Cheese Company, Inc., P.O. Box 610, Green Bay, WI 54305 (Robert Buchberger). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 60430 (Sub-No. 25TA), filed December 14, 1977. Applicant: FRIEDMAN'S EXPRESS, INC., P.O. Box 480, Dorrance Township, PA 18703. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading. Between Philadelphia, PA, and Quakertown, PA, serving all intermediate points, the off-route point of Camden, NJ, and all points in PA within five miles of route as described immediately below: From Philadelphia over U.S. Hwy 309 to Quakertown, and return over same route. Irregular routes, General commodities, except those of unusual value, livestock, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, PA, on the one hand, and, on the other, points in PA bounded by a line beginning at New Hope, PA, and extending along U.S. Hwy 202 to Norristown, PA, thence along U.S. Hwy 422 to Philadelphia, PA, and thence along the Delaware River to point of beginning, including points on the indicated portions of the highways specified. The above authority sought to purchase and obtain alternate route changing gateways in the purchase of the operating rights of Eagle Foods

d.b.a. Rutherfords for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 65 supporting shippers attached to the application which may be examined at the field office below or copies may be obtained at the Interstate Commerce Commission, in Washington, DC. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. P.O. Building, Scranton, PA 18503.

No. MC 110012 (Sub-No. 39TA), filed January 30, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Rd., Morristown, TN 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Freight trailers, empty or loaded with general commodities which have a prior or subsequent movement by rail, between points in* Cocke County, TN on the one hand, and on the other, Morristown, TN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Electro Voice Inc., Newport, TN, Vernco Corporation of Tennessee, Newport, TN. Send protests to: District Supervisor, Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 114273 (Sub-No. 344TA), filed January 31, 1978. Applicant: CRST, INC., 3930 16th Avenue, SW., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles) from the plantsite and storage facilities utilized by Royal Packing Co. at or near St. Louis, MO, to points in CT, MA, ME, MD, NH, NJ, NY, PA, RI, VT, and DC. Restricted to traffic originating at and destined to named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): Royal Packing Co., P.O. Box 156, National Stockyards, IL 62071. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 114632 (Sub-No. 143TA), filed January 30, 1978. Applicant:

APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, SD 57024. Applicant's representative: Michael L. Carter, (address same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and articles distributed by meat packinghouses*, as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from Omaha, NE, to CT, DC, MD, MA, NJ, NY, PA, RI, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Armour Food Co., 111 West Calredon, Greyhound Tower, Phoenix, AZ 85007. D. A. Chute, Manager Transportation and Distribution. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 115669 (Sub-No. 166TA), filed January 30, 1978. Applicant: DAHLSTEN TRUCK LINES, INC., P.O. Box 95, 101 West Edgar Street, Clay Center, NE 68933. Applicant's representative: Howard N. Dahlsten (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry bone chips, in bulk*, from the plantsites of Iowa Beef Processors, Inc., located at or near Amarillo, TX, and Emporia, KS, to the facilities of Kind and Knox Gelatin, Inc., located at or near Sergeant Bluff, IA for 180 days. Supporting shipper(s): Robert E. Gillespie, Iowa Beef Processor, Inc., Dakota City, NE 68371. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 117119 (Sub-No. 673TA), Filed February 6, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: Martin M. Geffon, P.O. Box 338, Willingboro, NJ 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed supplements* (except in bulk) from Cockeysville and Baltimore, MD, to Fayetteville, Batesville, Dardanelle, and Mountain Home, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): Rhodia, Inc., P.O. Box 425, Monmouth Junction, NJ 08852. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 119493 (Sub-No. 174TA), filed December 16, 1977. Applicant:

MONKEM CO., INC., P.O. Box 1196, West 20th Street, Joplin, MO 62801. Applicant's representative: Lawrence F. Kloeppel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed, feed supplements and feed components animal and poultry medicinal health products, pesticides and advertising materials related to such commodities*, from Kansas City, MO, and its commercial zone as defined by the Commission, to points in AL, CT, DE, FL, GA, MD, MA, ME, MN, NJ, NY, NH, NC, ND, RI, SC, SD, VA, VT, DC, WV and animal and poultry medicinal health products, pesticides and advertising materials related to such commodities from Kansas City, MO, and its commercial zone as defined by the Commission to AR, IL, IA, KS, LA, MI, MO, NE, OK, TN, TX for 180 days. Supporting shipper(s): Pfizer, Inc., 1107 South Missouri, Lee's Summit, MO. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119493 (Sub-No. 183TA), filed January 30, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th Street, Joplin, MO 64801. Applicant's representative: Lawrence F. Kloeppel, Pres. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, prepared shingles, roofing, cement, asphaltum, roofing paper, building materials, and supplies used in the manufacture and installation thereof*, between Joplin, MO, and points in AL, MI, and WI for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tamko Asphalt Products, Inc., 601 North High, Joplin, MO 64801. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119702 (Sub-No. 55TA), filed February 8, 1978. Applicant: STAHL CARTAGE CO., P.O. Box 486, 13D-A Hillsboro Avenue, Edwardsville, IL 62025. Applicant's representative: Jeffrey S. Wohlford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and liquid feed supplements, in bulk*, in tank vehicles, from the plantsite of Occidental Chemical Co. at or near Helton, MO, to all points in IA and IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mike Gonzales, Manager-Motor Transportation, Occi-

dental Chemical Co., 2000 South Post Oak Road, P.O. Box 1185, Houston, TX 77001. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 120427 (Sub-No. 11TA), filed January 30, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 448, 2128 East Highway 30, Grand Island, NE 68801. Applicant's representative: John K. Walker (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, from Gibbon, NE to Los Angeles, CA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wesley J. Hodge, Plant Superintendent, P.O. Box Q, Gibbon, NE 68840. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 123407 (Sub-No. 436TA), filed January 30, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from Stroud, OK, to Rapid City, Sturgis, Belle Fourche, Hot Springs, Custer, Edgemont, Spearfish, Whitewood, Deadwood, and Hill City, SD, for 180 days. Supporting shipper(s): Kaibab Industries, Inc., and Richard Mill, Assistant Manager, 200 West Oxford Avenue, P.O. Box 36007, Englewood, CO 80110. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 134755 (Sub-No. 128TA), filed January 16, 1978. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pet food* (except in bulk, from Belzoni, MS, to points in AR, LA, TX, and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sunshine Feed Mills, Inc., P.O. Box 1483, Tupelo, MS. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission—BOP, 600 Federal Building, 911

Walnut Street, Kansas City, MO, 64106.

No. MC 134978 (Sub-No. 15TA), filed February 10, 1978. Applicant: C. P. BELUE, d.b.a. BELUE'S TRUCKING, Route 2, Chesnee, SC 29323. Applicant's representative: Mitchell King, Jr., P.O. Box 1828, Greenville, SC 29602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials* (except in bulk in tank vehicles), from points in Greene County, TN, to points in GA, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Minerals & Chemical Corp., P.O. Box 5398, Spartanburg, SC 29304. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

No. MC 136605 (Sub-No. 43TA), filed January 31, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Applicant's representative: W. E. Seliski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard* from Albuquerque, NM, to MN and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): David Whitehead, president, Overland Mills, Inc., P.O. Box 25386, Portland, OR 97225. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue, North, Billings, MT 59101.

No. MC 136786 (Sub-No. 129TA), filed December 30, 1977. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, MN 55344. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *meat, meat products, meat by-products, dairy products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk) from the plantsite and storage facilities of John Morrell & Co. at Sioux Falls, SD to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC and; *II meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in

bulk) for the plantsite and storage facilities of John Morrell & Co. at Esterline, IA to points in CT, ME, MD, MA, NH, NJ, NY, PA, RI, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send Protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

No. MC 138313 (Sub-No. 30TA), filed January 9, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street NW., Great Falls, MT 59404. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, joint systems and materials and supplies used in the application thereof*, from the Great Falls, MT, to the ports of entry located on the International Boundary line between the United States and Canada located at Blaine, Sumas, Oroville, Ferry, Danville, Laurier, Frontier and Metaline Falls, WA; Porthill and Eastport, ID; and Roosville, Gateway, Piegan, Sweetgrass, Simpson, Morgan, Opheim, Scobey and Raymond, MT; restricted to traffic destined to the provinces of AB, SK, and BC, Canada. Supporting shipper(s): Scott A. Keller, transportation specialist, Georgia Pacific Corp., 900 Southwest 5th Ave., Portland, OR 97204. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 1st Ave., North Billings, MT 59101.

No. MC 140581 (Sub-No. 20TA), filed February 6, 1978. Applicant: TOMMY HAGWOOD, d.b.a. HAGWOOD ENTERPRISES, Route 1, Box 222-A, Trafford, AL 35172. Applicant's representative: William P. Jackson, Jr., P.O. Box 1267 Arlington, VA 22210. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Automobiles*, in truckaway service, between Los Angeles, CA, and points within its commercial zone, on the one hand, and, on the other, points in KS and OK, for 180 days. Supporting shipper: Alfa Romeo, Inc. 215 South Douglas Street, El Segundo, CA 90245. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 140665 (Sub-No. 23TA), filed January 31, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Applicant's representative: Clayton Geer, P.O. Box No. 786, Ravenna, OH 44266. Authority sought to

operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Electric lamps, lighting fixtures; Christmas Tree lamp outfits; electric cord sets; dry cell batteries; portable battery chargers, and materials and supplies* used in the manufacturing or distribution of the above commodities. From Bellevue, Cleveland, Warren, Youngstown, Ravenna, Circleville, and Bucyrus, OH, to points in the states of LA, OK, and TX, for 180 days. Supporting shipper(s): General Electric Compnay, Nela Park, East Cleveland, OH 44112. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission-BOP, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 141811 (Sub-No. 5TA), filed February 10, 1978. Applicant: SCHEDULED TRANSPORT, INC., Suite 2465, No. 1 Indiana Square, Indianapolis, IN 46204. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Mycelium*, in bulk, in tank vehicles, from Bremen, IN, to Fostoria, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brown Vy Lactos Co., a Division of Knappen Molasses Co., Bremen, MI 46506. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 142851 (Sub-No. 2TA), filed February 8, 1978. Applicant: ERVIN D. JANDREAU, P.O. Box 1, St. Francis, ME 04774. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, ME 04111. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Wood chips, bark, sawdust, planer mill shavings and wood residues*, from sawmills of Woodlands Improvement Corp., at St. John Plantation, ME, to ports of entry on the U.S.-Canadian border at or near Houlton, ME; Fort Kent, ME; and Madawaska, ME, under a continuing contract or contracts with Woodlands Improvement Corp., for 180 days. Supporting shipper: Woodlands Improvement Corp., R.F.D. No. 3, Box 90A, Fort Kent, ME 04743. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, ME 04111.

No. MC 143071 (Sub-No. 9TA), filed February 6, 1978. Applicant: UNIVERSAL DEVELOPMENT, INC., P.O. Box 568, York, NE 68467. Applicant's representative: William B. Barcer, 641

Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 766 (except hides and commodities in bulk) from the facilities of Sunflower Beef Packers, Inc., at York, NE to points in WA, OR, ID, and MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): G. Merritt Otoupal, traffic manager, Sunflower Beef Packers, Inc., Box 583, York, NE 68467. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building, and Court North, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 143773 (Sub-No. 2TA), filed February 7, 1978. Applicant: TOL-CO., INC., P.O. Box 489, Oakboro, NC 28129. Applicant's representative: Kenneth Malcolm, c/o Tol-Co., Inc., (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractory and insulation material, tools, equipment and supplies related to installation and repair of boilers and connecting boiler components and accessories* between points and places in KY, IL, AR, MI, WI, OK, TX, and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Flame Refractories, Inc., P.O. Box 24, Oakboro, NC 28129. Send protests to: District Supervisor, Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte NC 28205.

No. MC 143881 (Sub-No. 1TA), filed January 31, 1978. Applicant: HOTARD COACHES, INC., 716 Decker Avenue, Jefferson, LA 70112. Applicant's representative: Marshall J. Favret, 527 Hibernia Bank Building, New Orleans, LA 70112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round trip, special and charter operations beginning and ending at points in LA, and extending to points in AL, FL, GA, MS, TN, TX, SC, NC, WV, KY, OH, IN, IL, MI, MO, AR, CA, NV and CO, for 180 days. Supporting shipper(s) Tulane University athletic department, 6401 Willow Street, New Orleans, LA 70118 and 5 other supporting shippers send protests to: Roy C. Armstrong, Jr., District Supervisor, T-9038 U.S. Postal Service Building, 701 Loyola Ave., New Orleans, LA 70113.

No. MC 143988 (Sub-No. 2TA), filed February 8, 1978. Applicant: JAMES

W. TATE, d.b.a. JAMAR TRUCKING, 5377 Fleetway Avenue, Memphis, TN 38118. Applicant's representative: Mr. Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pastries and materials, supplies and equipment used in the manufacture of frozen pastries*, in mechanically refrigerated vans, between the plantsite and facilities of Ole South Foods, Inc., at or near Little Rock and Springdale, AR on the one hand, on the other, points in the states of AZ, CA, NM, IL, MI, MO, OK, TX, KS, MS, GA, AL, FL, SC, NC, VA, WV, KY, TN, IN, OH, PA, MD, LA, and OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ole South Foods, Inc., 33rd and Brown, Little Rock, AR 72214. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38130.

No. MC 144039 (Sub-No. 1TA), filed February 7, 1978. Applicant: PELLA CANNING AND PROCESSING, INC., 300 South Street, P.O. Box 83, Pella, IA 50219. Applicant's representative: William P. Sullivan, 1819 H Street, Suite 1000, Federal Office Building, West, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit flavored drinks and dry powdered fruit flavored beverage preparations* between Pella, IA on the one hand and, on the other, points in IL, KS, NE, MO, SD, and IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days for operating authority. Supporting shipper(s): The Coca-Cola Co., Foods Division, 711 South 10th Street, P.O. Box 1044, Omaha, NE 68101. Send protests to: Herbert W. Allen, District Supervisor Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 14412 (Sub-No. 1TA), filed January 31, 1978. Applicant: PHILIP, INC., 10550 Canyon Road, Omaha, NE 68112. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from the plantsite and/or cold storage facilities utilized

by Iowa Beef Processors, Inc., located at or near Denison and Ft. Dodge, IA; Luverne, MN; Dakota City and West Point, NE; to points in the states of CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. L. Dennison, Senior Transportation Technician, Iowa Beef Processors, Inc., Dakota City, NE 68731.

No. MC 144209 (Sub-No. 1TA), filed January 30, 1978. Applicant: ERWIN TRUCKING, INC., 7176 North 50th Street, Omaha, NE 68152. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food*, between the plantsites and storage facilities of Campbell Soup Co. at Omaha, NE, on the one hand, and the plantsites and storage facilities of Campbell Soup Co. at Salisbury, MD on the other restricted to traffic originating at and destined to the Facilities of the named shipper for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stephen M. Jander, manager of transportation, Campbell Soup Co., 1202 Douglass Street, Omaha, NE 68102. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 144239TA, filed January 30, 1978. Applicant: J.L.T. CORPORATION, 233 Green Village Road, Green Village, NJ 07935. Applicant's representative: Charles J. Williams, Esq., 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese, in vehicles equipped with mechanical refrigeration*, (a) from Lena, WI, to Providence, RI, DC, and points in CT, ME, MD, MA, NJ, NY, PA, and VA, and (b) from Saddle Brook, NJ, PA and VA (c) from Saddle Brook, NJ and the ports in New York, NY commercial zone to Lena, WI, (2) *Fiber boxes* from Pennsauken, NJ to Lena, WI, and (d) from Blair, WI to New York, NY, points in Nassau and Suffolk Counties, NY and to points in NJ and (3) labels from Mt. Holly to Lena, WI under a continuing contract or contracts with Frigo Cheese Corp., located at Lena, WI for 180 days. Supporting shipper(s): Frigo Cheese Corp., Lena, WI 54139. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 144255TA, filed January 30, 1978. Applicant: JIM AND RON'S

SERVICE, INC., 1900 West 12th Street, Sioux Falls, SD 57104. Applicant's representative: Mark Menard, P.O. Box 280, 5201 North Cliff Avenue, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, replacement, stolen, or repossessed vehicles* over irregular routes, in truckway service by use of wrecker equipment only between points in SD and points in IA, MN, NE and ND for 180 days. Supporting shipper(s): Dan Dugan Transport Co., 41st and Grange, Sioux Falls, SD 57101, Donald Rhiners, maintenance supervisor, J & W Diesel & Truck Service, 201 North Harlem, Sioux City, SD 57104. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 144258TA, filed January 30, 1978. Applicant: PINWOOD TRANSPORT, INC., GEORGIA PACIFIC STREET, P.O. Box 311, Glenwood, AR 71943. Applicant's representative: William G. Wright, P.O. Drawer 968, Fort Smith, AR 72902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips in bulk* form the Georgia Pacific Plant at Glenwood, AR to International Paper Co. located near Texarkana, TX for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia Pacific Corp., Georgia Pacific Street, Glenwood, AR 71943. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 144293 (Sub-No. 3TA), filed January 31, 1978. Applicant: GEORGE MCFARLAND, SIR., P.O. Box 21, Oakland, MN 56076. Applicant's representative: Thomas J. Beener, Suite 340, P.O. Box 5000, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, foodstuffs and articles distributed by meat packing houses* (Except hides and commodities in bulk) from Austin, MN, to Chicago, IL for 180 days. Supporting shipper(s): George A. Hormet & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

By the Commission,

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

[FR Doc. 78-8595 Filed 3-13-78; 8:45 am]

[7035-01]

[Notice No. 29TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 2, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52657 (Sub-No. 743TA), filed February 7, 1978. Applicant: ARCO AUTO CARRIERS, INC., 16 West 151 Shore Court, Burr Ridge, IL 60521. Applicant's representative: James Bouril, 16 West 151 Shore Court, Burr Ridge, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles, trucks, and chassis*, in initial movements, in truckaway service, from the plant facilities of the Jeep Corp., a subsidiary of American Motors Corp., located at Toledo, OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, for 180 days. Supporting shipper(s): American Motors Corp., Leonard C. Kropp, Manager of Traffic, Manufacturing Staff, 14250 Plymouth Road, Detroit, MI 48232. Send protests to: Patricia A. Roscoe, Trans-

portation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, IL 60604.

No. MC 59367 (Sub-No. 115TA), filed February 7, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, 3584 5th Avenue South, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials used in the installation and application of such commodities (except commodities in bulk), from Franklin, OH, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, SD, and WI, and (2) materials, equipment, and supplies used in the manufacture, installation, or application of roofing or building materials (except commodities in bulk), from points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, SD, and WI, to Franklin, OH, for 180 days. Supporting shipper: Georgia-Pacific Corp., 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.*

No. MC 71593 (Sub-No. 5TA), filed February 15, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), between New Haven, CT, Boston and Springfield, MA, and Philadelphia, PA, and their respective commercial zones, on the one hand, and, on the other, Chicago, IL, Milwaukee, WI, and St. Louis, MO, and their respective commercial zones, restricted to the transportation of shipments moving on freight forwarder bills of lading, for 180 days. Supporting shipper: Lifschultz Fast Freight, 28 North Franklin Street, Chicago, IL 60606, and ABC-Trans National Transport, Inc., 201 11th Avenue, New York, NY 10001. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.*

No. MC 72543 (Sub-No. 3TA), filed February 7, 1978. Applicant: JAMES R. GULLEY AND MADISON D. LOCKE, d.b.a. J&M TRUCKING, P.O. Box 351, East Ely, NV 89315. Applicant's representative: Madison D.

Locke, P.O. Box 351, East Ely, NV 89315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mud or compounds, gas or oil drilling, or gas or oil drilling mud treating compounds, in bags or barrels, from Battle Mountain, Ely and East Ely, NV, to points in Elder, Toole, Juab, Millard, Beaver, and Iron Counties, UT, for 180 days. Supporting shipper(s): Imco Services, a Division of Halliburton Co., 1600 Broadway, Suite 480, Denver, CO 80202. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV, 89701.*

No. MC 75320 (Sub-No. 192TA), filed January 24, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Applicant's representative: Phineas Stevens, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Kansas City, MO, and points in the Kansas City, MO, and Kansas City, KS, Commercial Zone, on the one hand, and, on the other, points in IA. Restriction: Applicant shall not pursuant to the irregular-route authority sought herein, transport shipments moving between any points authorized herein which can be served by applicant in regular-route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (22) certification of support statements attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO, 64106.*

No. MC 106674 (Sub-No. 283TA), filed February 10, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn feed and corn feed ingredients, from the plant of A. E. Staley Manufacturing Co., at Lafayette, IN, to Chicago and Decatur, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operat-*

ing authority. Supporting shipper(s): A. E. Staley Manufacturing Co., 2200 East Eldorado Street, Decatur, IL 62525. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 106674 (Sub-No. 284TA), filed February 10, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane, in bulk, in tank vehicles, from Tod Hunter, OH, to points in IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Indiana Farm Bureau Cooperative Association Inc., 47 South Pennsylvania Street, Indianapolis, IN 46204. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.*

No. MC 106674 (Sub-No. 285TA), filed February 10, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board, from Pennsauken NJ, to all points located in the states of AL, FL, GA, IL, IN, KY, MI, MS, NC, OH, SC, TN, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Celotex Corp., 1500 North Dale Mabry Highway, Tampa, FL 33607. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.*

No. MC 107544 (Sub-No. 145TA), filed February 10, 1978. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, VA 24354. Applicant's representative: Daryl J. Henry, P.O. Box 580, Marion, VA 24354. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen tetroxide, in bulk, in tank vehicles, from Vicksburg, MS, to Bogalusa, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vicksburg Chemical Co., P.O. Box 3, Vicksburg, MS 39180. Send protests to: Irene W. Yost, Secretary, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 24011.*

No. MC 110525 (Sub-No. 1226TA), filed February 15, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur dioxide*, in bulk, in tank vehicles and/or multi-unit tank vehicles, from Copperhill, TN, to Oklahoma City and Tulsa, OK, and Milwaukee, WI, for 180 days. Supporting shipper(s): Cities Service Co., P.O. Drawer 50360, Atlanta, GA 30302. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 115826 (Sub-No. 291TA), filed February 15, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Terminal Annex, 1960 31st Street, Denver, CO 80217. Applicant's representative: Howard Gore, 1960 31st Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from Clearfield, UT and Tulsa and Durant, OK, and Dallas, TX, and their commercial zones, for 180 days. Supporting shipper(s): Idaho Frozen Foods, P.O. Box 128, Twin Falls, ID 83301. Send protests to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 118202 (Sub-No. 84TA), filed February 7, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Robert S. Lee, 1000 1st National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by retail gift specialty stores, from Laredo, TX, to points in AL, AR, CT, DE, FL, GA, KS, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OK, PA, RI, SC, TN, VT, VA, and WV, for 180 days. Supporting shipper(s): There are approximately (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 125777 (Sub-No. 209TA), filed February 7, 1978. Applicant: JACK GRAY TRANSPORT, INC.,

4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: Allan C. Zuckerman of Axelroad, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer*, dry, in bulk, from the plant-site of Agrico Chemical Co., located at or near Melbourne, KY, to points in IL, IN, KY, MI, OH, VA and WV, restricted to traffic originating at the above-mentioned plant-site; and (2) *feed and feed ingredients*, in dump vehicles, (a) between points in OH, on the one hand, and, on the other, points in IL, IN, and MI, and (b) between points in IN, and IL, on the one hand, and, on the other, MI, for 180 days. Supporting shipper(s): The Anderson's Roger J. Truckor, Grain & Grain Products Transportation Manager, 507 Illinois Avenue, Maumee, OH 43537. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 125894 (Sub-No. 5TA), filed February 7, 1978. Applicant: J. AND R. SCHUGEL TRUCKING, INC., 301 North Water Street, New Ulm, MN 56073. Applicant's representative: James Malecki, One South State Street, New Ulm, MN 56073. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk rendering plant products*, (except hides and liquid commodities in tank vehicles), from Chippewa Falls, WI, to points in MN and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Packerland Packing Co., of Chippewa Falls, Inc., P.O. Box 1184, Green Bay, WI 54305. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 126305 (Sub-No. 90TA), filed February 7, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Clayton, AL 36016. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings*, from the facilities of Atlantic States Cast Iron Pipe Co., at Phillipsburg, NJ, to points in DE, MD, VA, WV, NC, SC, KY, TN, GA, AL, MS, FL, and the DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Atlantic States Cast Iron

Pipe Co., 183 Sitreaves Street, Phillipsburg, NJ 08865. Send protests to: Mabel E. Holston, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 128273 (Sub-No. 285TA), filed February 7, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plant-site and warehouse facilities of The Mead Corp. at Groos (Escanaba), MI, to all points within the State of CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Mead Corp., Courthouse Plaza Northeast, Dayton, OH 45463. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 134286 (Sub-No. 43TA), filed February 14, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles J. Kimball, Suite 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in section A and C of appendix I, to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the plant-site and/or storage facilities utilized by Sioux Preme Packing Co., at or near Sioux Center, IA, to points in the States of CA, OR, and WA, for 180 days. Supporting shipper(s): Larry Walsh, Vice President, Sioux Preme Packing Co., Highway 75 South, Sioux Center, IA 51250. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 135326 (Sub-No. 9TA), filed January 31, 1978. Applicant: BILLY R. ALMAND, d.b.a. ALMAND TRUCKING CO., P.O. Box 7959, Shreveport, LA 71107. Applicant's representative: J. D. Haynes, P.O. Box 7959, 4277 North Market Street, Shreveport, LA 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, particleboard and wood paneling*, from plantsites or facilities of Georgia Pacific Corp., located in AR, to points in AR, TX, OK, KS, NM, CO,

and those points in MO, located on and south of Interstate 70, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) from points in the destination States in (1) to the plantsites or facilities of Georgia Pacific Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia Pacific Corp., P.O. Box 520, Crossett, AR 71635. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 South Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 136291 (Sub-No. 8TA), filed January 26, 1978. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 Northwest 82nd Avenue, Miami, FL 33166. Applicant's representative: Albert W. Stout, 3600 Northwest 82nd Avenue, Miami, FL 33166. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid argon, liquid nitrogen, liquid oxygen in specially designed cryogenic vehicles* provided and owned by the shipper, from Huntsville, AL, to points in GA, KY, TN, MS, LA, NC, SC, FL, AR, under a continuing contract, or contracts, with Union Carbide Corp., for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Union Carbide Corp., 270 Park Avenue, New York, NY 10017. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, 8410 Northwest 53rd Terrace, Monterey Building, Suite 101, Miami, FL 33166.

No. MC 136348 (Sub-No. 3TA), filed February 13, 1978. Applicant: ANTHONY G. FRANCIS AND JOSEPH G. FRANCIS, d.b.a. FRANCIS WHOLESALE CO., 101 Welborn Street, Greenville, SC 29601. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 38167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass cloth*, from Anderson, SC, to points in CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clark-Schwebel Fiber Glass Corp., P.O. Box 2627, Anderson, SC 29621. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

No. MC 136786 (Sub-No. 131TA), filed February 7, 1978. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, MN 55343. Authority sought to operate as a *common carrier*, by motor vehicle, over irregu-

lar routes, transporting: *Meat, meat products, meat byproducts* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Denison and Fort Dodge, IA, West Point and Dakota City, NE, and Laverne, MN, to points in NC and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 138328 (Sub-No. 59TA), filed February 14, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Face brick, fire brick, glazed face brick, and glazed and unglazed structural facing tile*, from the facilities of Elgin-Butler Brick Co. located in Bastrop County, TX, to points in AL, FL, GA, LA, MS and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. Colby Jones, Traffic Manager, Elgin-Butler Brick Co., P.O. Box 1947, Austin, TX 78767. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 138741 (Sub-No. 44TA), filed February 10, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60453. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West 11th Street, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials* used in the installation and application of such commodities (except commodities in bulk), from Franklin, OH, to points in AR, IL, IN, IA, KS, KY, MI, NE, OK, TN, and WI, and (2) *materials, equipment, and supplies* used in the manufacture, installation, or application of roofing or building materials (except commodities in bulk), from points in AR, IL, IN, IA, KS, KY, MI, MO, NE, OK, TN, and WI, to Franklin, OH, for 180 days. Supporting shipper(s): Georgia-Pacific Corp., Robert A. Cronk, Transportation Supervisor, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Patricia A. Roscoe, Trans-

portation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 138875 (Sub-No. 73TA), filed February 7, 1978. Applicant: SHOE-MAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in section A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite of Columbia Foods, Inc., a subsidiary of Iowa Beef Processors, Inc., at or near Boise, ID, to AZ, CA, and UT, for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No. MC 138882 (Sub-No. 42TA), filed February 7, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs for human consumption*, in mechanically refrigerated equipment (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., Decatur, GA, to points in AL, LA, and MS, for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139482 (Sub-No. 36TA), filed February 7, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles),

from the States of ND, SD, NE, KS, OK, TX, MN, IA, MO, WI, and IL, to the ports located at or near New Orleans, LA; Gulfport, MS; Jacksonville and Miami, FL, and Charleston, SC, for 180 days. Supporting shipper(s): AJC International, Inc., 6065 Roswell Road NE, Atlanta, GA 30328. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 139917 (Sub-No. 3TA), filed February 10, 1978. Applicant: SEARAIL, INC., 701 South Royal Street, Box 909, Mobile, AL 36601. Applicant's representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), in containers or trailers, having an immediate prior or subsequent movement by water, and (2) *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), having an immediate prior or subsequent movement by rail, between New Orleans, LA, on the one hand, and, on the other, points, in AL, LA, MS, and those in FL west of the Apalachicola River, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (56) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 140240 (Sub-No. 3TA), filed February 10, 1978. Applicant: TIPPECANOE WAREHOUSING, INC., 192 Farabee Drive, Lafayette, IN 47905. Applicant's representative: Francis W. McInery, 1000 Sixteenth Street, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, and other related articles* as dealt in by drug wholesalers and stores, retail stores, and discount houses, (1) from Lafayette and Monticello, IN, to the State of MI; (2) from Lafayette, IN, to Chicago, IL, under a continuing contract, or contracts, with Chesebrough Pond's, Inc., for 180 days. Supporting shipper(s): Chesebrough Pond's, Inc., John Street, Clinton, CT 06413. Send protests to: J. H. Gray, District Supervisor, Bureau of

Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 140612 (Sub-No. 45TA), filed February 8, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, 1200 Norwood Drive SE., Cedar Rapids, IA 52406. Applicant's representative: J. L. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, and accessories, and materials, and supplies* used in the manufacture of plastic articles, between the manufacturing facilities of Centro, Inc., located at or near Oxford, IA, on the one hand, and, on the other, points in KS, MO, IL, MI, OH, IN, KY, AR, TX, WI, MN, TN, and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Centro, Inc., R.F.D. No. 3, Oxford, IA 52322. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 141806 (Sub-No. 3TA), filed February 7, 1978. Applicant: CHARLES KRAFT and ANTHONY VALVO, d.b.a. VEE-KAY CARTAGE CO., 2167 North Melvina Street, Chicago, IL 60639. Applicant's representative: Philip A. Lee, 120 West Madison Street, Suite 618, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molten liquid aluminum alloys and aluminum ingots*, from Chicago, IL, to Fond-du-Lac, Grafton, Madison, Sheboygan, and Racine, WI, also *scrap metals*, from Fond-du-Lac, Grafton, Madison, Sheboygan, and Racine, WI, to Chicago, IL, under a continuing contract, or contracts, with Lissner Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lissner Corp., David M. Lissner, Traffic Manager, 1000 North North-Branch Street, Chicago, IL 60622. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 142519 (Sub-No. 2TA), filed February 7, 1978. Applicant: DELIVERY SERVICE CORP., 4815 Cabot Avenue, Detroit, MI 48210. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Window glass, plate glass, laminated glass, automobile glass, appliance door windows, framed and un-*

framed, from Detroit, MI, to points in AL, AZ, CA, FL, GA, LA, OK, TX, MS, and NM; and (2) *materials and supplies* used in connection with the manufacture and distribution of the commodities in (1) above, from the destination area described in (1) above, to Detroit, MI, under a continuing contract, or contracts, with Shatterproof Glass Corp., of Detroit, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shatterproof Glass Corp., 4815 Cabot, Detroit, MI 48210 (E. E. DeFobio Vice Chairman). Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 143179 (Sub-No. 2TA), filed February 14, 1978. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Applicant's representative: Foster L. Kent (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers and lids, and plastic foam products*, from Omaha, NE, to points in CO, IL, IA, KS, MI, MN, MS, OK, TX and WI, under a continuing contract, or contracts, with AirTite Plastics Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. L. Arendt Traffic Manager, AirTite Plastics Company, 13724 Industrial Road, Omaha, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 143317 (Sub-No. 3TA), filed February 10, 1978. Applicant: GEORGE CLARK TRANSIT COMPANY, 2902 Calumet Avenue, Manitowoc, WI 54220. Applicant's representative: John L. Bruemmer, 121 W. Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Phenolic coated resin sand*, from points in Green Lake County, WI, to Sartell, MN, under a continuing contract, or contracts, with Faskure Coated Sand Division of Aurora Metal Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Faskure Coated Sand Division of Aurora Metal Company, P.O. Box 126, Fairwater, WI 53931. (Russell Henriksen) Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 143986 (Sub-No. 2TA), filed February 10, 1978. Applicant: ROBERT L. WILLEY, d.b.a. WILLEY FREIGHTWAYS, 14836 LaSalle Street, Dolton, IL 60419. Applicant's representative: David A. Turano, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials and roofing felt*, from the plant-site and facilities of Certain-Teed Corporation located at or near Avery, Erie County, OH, to the plant-site and facilities of Certain-Teed Corporation at Chicago Heights, IL, for 180 days. Supporting shipper(s): Certain-Teed Corporation, David H. Silvernail Manager, Transportation Operations, P.O. Box 860, Shelter Materials Group, Valley Forge, PA 19482. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 144282 (Sub-No. 1TA), filed February 7, 1978. Applicant: JAMES RECK, d.b.a., JAMES RECK TRUCKING, 4029 West McDowell, No. 4, Phoenix, AZ 85009. Applicant's representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement roofing tile and related accessories*, from the plantsites of Staco Roof Tile Company, Inc., in Phoenix, AZ, to points in CA south of the northern boundaries of San Luis Obispo, Kern and San Bernardino Counties, CO; NM, Clark County, NV, and El Paso County, TX, under a continuing contract, or contracts, with Staco Roof Tile, Division of Kinsman Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Staco Roof Tile, Division of Kinsman Industries, 3530 East Elwood, Phoenix, AZ 85040. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 144291 TA, filed February 7, 1978. Applicant: ROBERT C. HICKMAN, d.b.a., HICKMAN MOVING & STORAGE, P.O. Box 502, Elba, AL 36323. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Dale, Barbour, Coffee, Geneva, Henry, Houston, Pike and Covington Counties, AL, restricted to the transportation of traffic having a prior or subsequent move-

ment, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shipper(s): (1) Ford Pak, Inc., Rocky Ford Moving Vans, 3811 West Industrial Avenue, Midland, TX 79701. (2) Door to Door International, Inc., 7109 Woodlawn Avenue, N.E., Seattle, WA 98115. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 144322 TA, filed February 14, 1978. Applicant: HILTON A. WILSON, R.R. No. 2, Heyworth, IL 61734. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Cellulose insulation*, from Armington, IL, to points in AR, IN, IA, KY, MS, MO, OH, TN, and WI, and (B) *scrap paper*, from points in AR, IN, IA, KY, MS, MO, OH, TN, and WI, to Armington, IL, for the account of Diversified Insulation, Inc., Armington, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lyle Fulk Traffic and Production Manager, Diversified Insulation, Inc., Box 135, Armington, IL. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

By the Commission.

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

[FR Doc. 78-6600 Filed 3-13-78; 8:45 am]

[7035-01]

[Notice No. 30TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 3, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify

that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information. Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 414TA), filed February 15, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, P.O. Box 958, Oakland, CA 94612. Applicant's representative: Edgar E. Reddick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products requiring refrigeration*, from the plantsite of Ranchers Meats, Inc., Douglas, WY on the one hand and, on the other, all points in CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA and VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ranchers Meats, Inc., P.O. Box 547, Douglas, WY 82633. Send protests to: District Supervisor, A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

No. MC 25798 (Sub-No. 305TA), filed February 22, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, 502 E. Bridgers Ave., Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cranberry juice*, in bulk, in tank vehicles, from Middleboro, MA; Kenosha, WI; and Bordentown, NJ, to Montgomery, AL, for 180 days. Supporting shipper: Ocean Spray Cranberries, Inc., Plymouth, MA 02360. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOP, Monterey Building, Suite 101, 8410 NW 53rd Terrace, Miami, FL 33166.

No. MC 41404 (Sub-No. 139TA), filed February 17, 1978. Applicant: ARGO-

COLLIER TRUCK LINES CORP., P.O. Drawer 440, Fulton Highway, Martin, TN 38237. Applicant's representative: Mark L. Horne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from the facilities of Universal Foods Corporation at Campbellsport, WI, to the facilities of Quaker Oats Company at Jackson, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Universal Foods Corporation, 433 East Michigan Street, Milwaukee, WI. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 51148 (Sub-No. 578TA), filed February 21, 1978. Applicant: **SCHNEIDER TRANSPORT, INC.**, P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rolls of pulpboard*, from Otsego, MI, to IN and IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Menasha Corporation, P.O. Box 367, Neenah, WI 54956 (Edward F. Petzer). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, WI 53202.

No. MC 72495 (Sub-No. 21TA), filed February 21, 1978. Applicant: **DON SWART TRUCKING, INC.**, Route 2, Box 49, Wellsburg, WV 26070. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granulated slag*, in bulk, from the plantsite of H. B. Reed & Co., at or near Cresap, WV, to the plantsite of CertainTeed Corp., at York, PA, for 180 days. Supporting shipper: CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Bldg., Wheeling, WV 26003.

No. MC 96938 (Sub-No. 10TA), filed February 8, 1978. Applicant: **ARKANSAS TRANSIT HOMES, INC.**, 8400 Mabelvale Pike, Little Rock, AR 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except recreational vehicles) and buildings, in sections (except prefabricated buildings) in initial movements, from points in AR to points in MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (13) statements of support attached to the application which may be examined at the field office named below. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 106674 (Sub-No. 286TA), filed February 21, 1978. Applicant: **SCHILLI MOTOR LINES, INC.**, P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, except in bulk, from the facilities of United States Gypsum Co. at Genoa, OH, to points in NY, NJ, PA and MD, for 180 days. Supporting shipper: United States Gypsum Co. 101 South Wacker Drive, Chicago, IL 60606. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 106674 (Sub-No. 287TA), filed February 15, 1978. Applicant: **SCHILLI MOTOR LINES, INC.**, P.O. Box 123—U.S. Highway 24 West, Remington, IN 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated or acrylic particle board*, from Jessco, Inc., at Dowagiac, MI, to East Durham and Brooklyn, NY; and Berryville and Marion, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jessco, Inc., 202 West Spaulding, Dowagiac, MI 49047. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 110098 (Sub-No. 161TA), filed February 22, 1978. Applicant: **ZERO REFRIGERATED LINES, P.O.** Box 20380, 1400 Ackerman Road, San Antonio, TX 78220. Applicant's representative: T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* in mechanically refrigerated equipment, from Kraft, Inc., facilities of Champaign,

IL, to Kraft, Inc., facilities at Garland, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft, Inc., 500 Peshigo Court, Chicago, IL 60690. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Building, 727 E. Durango Blvd., San Antonio, TX 78206.

No. MC 110988 (Sub-No. 363TA), filed February 22, 1978. Applicant: **SCHNEIDER TANK LINES, INC.**, 4321 W. College Avenue, Giltedge Bldg., Appleton, WI 54911. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in bulk, in tank vehicles, from Kobuta, PA, to Luke, MD, and from Kobuta, PA, to Dalton, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arco Polymers, Inc., 1500 Market St., Philadelphia, PA 19103 (J. J. McCann). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 112595 (Sub-No. 76TA), filed February 10, 1978. Applicant: **FORD BROTHERS, INC.**, 510 Riverside Drive, P.O. Box 727, Ironton, OH 45638. Applicant's representative: Walter S. Dail (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar*, in bulk, in tank vehicles, from Ironton, OH to Pell City, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Walter A. Edwards, Jr., Plant Manager (Traffic), Allied Chemical Company, P.O. Box 99, 3330 South Third Street, Ironton, OH 45638. Send protests to: Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 112822 (Sub-No. 448TA), filed February 15, 1978. Applicant: **BRAY LINES, INC.**, 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Applicant's representative: Charles B. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Blackfoot, Caldwell, Pocatello, Ririe, and/or Rupert, ID, to the facilities of Kraft, Inc., at Springfield, MO, and Atlanta and Decatur, GA, for 180

days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 Northwest 3rd, Oklahoma City, OK 73102.

No. MC 114211 (Sub-No. 345TA), filed February 14, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, Suite 1600 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and plywood*, from Libby, MT, to destinations in and east of ND, SD, CO, NE, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: St. Regis Paper Co., 1203 East D Street, Tacoma, WA 98401. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 114273 (Sub-No. 346TA), filed February 15, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from Cedar Rapids, IA to points in OH and IL, Louisville, KY, Mechanicsburg, Philadelphia, and West Chester, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 114969 (Sub-No. 72TA), filed February 23, 1978. Applicant: PRO-PANE TRANSPORT, INC., P.O. Box 232, 1734 State Route 131, Milford, OH 45150. Applicant's representative: James Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, in bulk and in bags, from Fort Wayne, IN, to points in MI on and south of MI State Route 46, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied Mills, Inc., Ronald J. Bear, Plant Traffic Manager, P.O. Box 537, Fort Wayne,

IN 46801. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 118159 (Sub-No. 247TA), filed February 21, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded cellular foam rubber*, from Baltimore, MD, to Cleburne, TX, for 180 days. Supporting shipper: William T. Burnett & Co., Inc., 1500 Bush Street, Baltimore, MD 21230. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office Building and Court House, 215 Northwest 3rd, Oklahoma City, OK 73102.

No. MC 119654 (Sub-No. 37TA), filed February 21, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Terre Haute, IN, to points in IL, KY, MI, MO, OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 123819 (Sub-No. 51TA), filed February 21, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, 3359 Cazassa Road, Memphis, TN 38116. Applicant's representative: Mr. Bill R. Davis, 2814 New Spring Road, Atlanta, GA 30339. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed ingredients*, in bulk, in tank vehicles, from Indianola, MS, to Thayer, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Delta Western Chemical, Inc., P.O. Box 878, Indianola, MS 38751. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 124951 (Sub-No. 39TA), filed February 21, 1978. Applicant:

WATHEN TRANSPORT, INC., P.O. Box 237, Henderson, KY 42420. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and empty malt beverage containers, between the plantsite of Olympia Brewing Co., St. Paul, MN, on the one hand, and, on the other, Henderson, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Ronald Utley, President, Dawson Springs Beverage Co., Inc., P.O. Box 382, Henderson, KY 42420. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 128007 (Sub-No. 120TA), filed February 22, 1978. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, KS 66762. Applicant's representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and Bone Meal*, in bulk, from Emporia, KS, to Terre Haute, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th St., Vernon, CA. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 129923 (Sub-No. 13TA), filed February 21, 1978. Applicant: SHIPPER TRANSPORTS, INC., 5005 Commerce Street, P.O. Box 147, West Memphis, AR 72301. Applicant's representative: Edward G. Grogan, Suite 202, First Tennessee Bank Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clean rice* (pre-cooked) in truck loads, also in mixed loads with regular rice, in packages or containers other than in bulk, from Houston, TX, to New York City, NY, and its commercial zone, for 180 days. Supporting shipper: Riviana Foods, Inc., P.O. Box 2636, Houston, TX 77001. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 133542 (Sub-No. 12TA), filed February 9, 1978. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, WI, to Mar-

shall, MN, under a continuing contract or contracts with Lake Beverage Co., Marshall, MN, for 180 days. Supporting shipper: Lake Beverage Company, 700 North 7th Street, Marshall, MN 56258. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 140123 (Sub-No. 4TA), filed February 21, 1978. Applicant: GRAHAM TRANSFER, INC., Route 2, Main Street, Linden, TN 37096. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel tubing, coils and bars*, from Chicago, IL, and its commercial zone to Perry County, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Linden Products Company, Division of Ferro Mfg. Corp., Squirrel Hollow Drive, Linden, TN 37096. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 144084 (Sub-No. 1TA), filed January 25, 1978. Applicant: DONALD E. FITZPATRICK, SR., d.b.a. FITZPATRICK TRANSPORT, 9942 West St. Charles Road, Sumner, MI 48889. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and Fertilizer ingredients*, from Toledo, OH and points in its commercial zone to points in the Lower Peninsula of MI, for 180 days. Supporting shipper: Royster Company, Norfolk, VA 23501. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 144122 (Sub-No. 1TA), filed February 21, 1978. Applicant: CARRETTA TRUCKING INC., S160, Route 17 North, Paramus, NJ 07652. Applicant's representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Books*, from Poughkeepsie, NY, to Schaumburg, IL, and Coffeyville, KS, for 180 days. Supporting shipper(s): Dell Publishing Company, Changebridge Road, Pine Brook, NJ, Western Publishing Co., Inc., 107 Tom Starling Road, Fayetteville, NC. Send protests to: Joel Morris, District Su-

pervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Room 618, Newark, NJ 07102.

No. MC 144137 (Sub-No. 1TA), filed February 24, 1978. Applicant: GUY AYERS, P.O. Box 1, Halfway, KY 42150. Applicant's representative: John Bowen, P.O. Box 7191, Nashville, TN 37210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, from the plantsites of Bowling Green Packing Co., Bowling Green, KY, and Blatz Brothers Packing Co., Nashville, TN, to New York City, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Walter Ulm, Chief Executive Officer, Blatz Brothers Packing Co., 1612 Elm Hill Road, Nashville, TN 37210. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

By the Commission.

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

[FR Doc. 78-6596 Filed 3-13-78; 8:45 am]

[7035-01]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD

Rerouting Traffic

[ICC Order No. 53; revised S.O. 12523]

To all railroads: In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. is unable to transport promptly all traffic offered for movement over its lines between St. Paul, Minn., and Tacoma-Seattle, Wash., because of blizzards.

It is ordered, That: (a) *Rerouting traffic*. The Chicago, Milwaukee, St. Paul and Pacific Railroad Co. being unable to transport promptly all traffic offered for movement over its lines between St. Paul, Minn., and Tacoma-Seattle, Wash., because of blizzards, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained*. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers*. Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rer-

outed or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date*. This order shall become effective at 9 a.m., March 3, 1978.

(g) *Expiration date*. This order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 3, 1978.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-6601 Filed 3-13-78; 8:45 am]

[7035-01]

[Docket No. AB-7 (Sub-No. 47)]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Abandonment Near St. Clair Junction and Pemberton, in Freeborn, Waseca, and Blue Earth Counties, Minn.; 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 February 28, 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 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. of a line of railroad known as the St. Clair Junction to Pemberton Branch extending from railroad milepost 1.3 near St. Clair Junction in a northwesterly direction to railroad milepost 33.9 near Pemberton, a distance of 32.6 miles, in Freeborn, Waseca, and Blue Earth Counties, Minn. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Since no investigation was instituted, the requirement of section 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 (section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than March 29, 1978. The

offer, as filed, shall contain information required pursuant to section 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 45 days from the date of this publication.

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

[FR Doc. 78-6593 Filed 3-13-78; 8:45 am]

[7035-01]

GRAIN SHIPMENTS

Railroad Service Board Advises It Will Consider Requests To Reduce the Number of Rail Cars Required

The Nation is in the midst of the most severe rail car shortages since the 1972-73 Russian grain sale period. The Commission's Railroad Service Board has taken several actions requiring railroads to depart from established procedures and follow directions set out in the emergency Service Orders.

The Railroad Service Board continues to look for methods to maximize the use of the rail car fleet. In this connection, attention is directed to the movement of grain under tariff provisions that require more than one rail car and as many as one hundred cars. The inability of the railroads to provide the total number of cars by type,

size, or capacity at the time ordered for placement delays the movement of the cars that are available for the shipment but are held idle while the full complement of cars is assembled. The same type of delays occur where the tariff provides for a mixture of private and railroad-owned cars and the carrier cannot immediately meet its equipment responsibilities causing the private cars to be held idle.

In order to reduce rail car delay in these categories and any other similar circumstances, the Railroad Service Board will consider requests from rail carriers wanting to transport shipments of grain in fewer cars than are necessary to meet the tariff minimum tonnage at the freight rate that would be applicable for that minimum tonnage but applied on the actual weight of the shipment.

Railroads submitting requests for approval to transport grain shipments in fewer cars than required to meet the minimum tonnage shall certify that they are unable to supply sufficient equipment to meet the tonnage requirements set forth in the applicable tariff. The certification shall identify the tariffs and specific items that will be affected.

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

MARCH 8, 1978.

[FR Doc. 78-6592 Filed 3-13-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6712-01]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, March 16, 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

Broadcast—1—Notice of inquiry and notice of proposed rulemaking regarding Top-50 policy.

Complaints and Compliance—1—Amendment of Part 73 of the Commission's Rules relating to definition of legally qualified candidates.

Complaints and Compliance—2—Commission policy in enforcing section 312(a)(7) of the Communications Act, the "reasonable access" provision.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone number 202-632-7260.

Issued: March 9, 1978.

[S-556-78 Filed 3-10-78; 2:46 pm]

[6715-01]

2

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. —

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, March 15, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN MEETING: Please change the time of the meeting to: 2 p.m.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone: 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.
[S-550-78 Filed 3-10-78; 10:07 am]

[6715-01]

3

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" No. S-532-78.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, March 16, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN MEETING: Please delete: AO 1977-41 and add: AO 1977-71. Add: Changing the commission's threshold for making MUR's of corporate union contributions.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, Telephone: 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.
[S-554-78 Filed 3-10-78; 2:46 pm]

[6740-02]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 9929, published March 10, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: March 14, 1978, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

ER-4.—E-8570 (Fuel Clause), Southern California Edison Co.

ER-5.—E-9609, Connecticut Municipal Electric Energy Cooperative, Complainant v. Power Authority of the State of New York, Respondent.

ER-6A.—ID-1820, Fred D. Hufer.

ER-B.—ID-1692, John W. Vaughan.

ER-C.—ID-1741, James E. Tribble.

ER-D.—ID-1819, Warren L. Stevens.

ER-E.—ID-1778, Jack Lloyd.

ER-F.—ID-1323, R. Leigh Fitzgerald.

ER-G.—ID-1804, Larry G. McManus.

ER-H.—ID-1682, Frederick Lange.

ER-I.—ID-1528, John Tillinghast.

ER-J.—ID-1723, Frank N. Bien.

ER-K.—ID-1734, John R. Burton.

ER-L.—ID-1821, John T. Bok.

ER-M.—ID-1735, John E. Dolan.

ER-N.—ID-1800, Thomas A. Greenquist.

ER-O.—ID-1816, A. Joseph Dowd.

ER-P.—ID-1779, Desbrow.

CAP-17.—ER78-15, Southwestern Public Service Co.

CAP-18.—ER78-191 and ER78-206, Mississippi Power & Light Co.

CI-O.—CI75-45, et al., Tenneco Oil Co., et al.

KENNETH F. PLUMB,
Secretary.

[S-557-78 Filed 3-10-78; 2:46 pm]

[6730-01]

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8345, March 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: March 9, 1978, 10 a.m.

CHANGES IN THE MEETING: Addition of the following items to the open session:

11. Certificates of financial responsibility for performance and casualty covering the Michael Lermontov.

12. Agreement No. 10135-4: Extension of Far East Conference and Pacific Westbound Conference Discussion Agreement—Proposed order.

[S-555-78 Filed, 3-10-78; 2:46 am]

[6210-01]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION

OF PREVIOUS ANNOUNCEMENT: 43 FR 9407, March 7, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, March 13, 1978.

CHANGES IN THE MEETING: Deletion of the following open items from the agenda:

1. Routine revisions and extensions of the following Federal Reserve forms: "Monthly Report on Foreign Branch Assets and Liabilities" (FR 502) and "Quarterly Report on Foreign Branch Assets and Liabilities" (FR 5028).

2. Proposed supervisory letter or amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) with respect to the use of material nonpublic information by member bank personnel in the purchase or sale of securities.

These matters will be considered at an Open Meeting on Friday, March 17, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: March 9, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-547-78 Filed 3-10-78; 10:07 am]

[6210-01]

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, March 17, 1978.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: This notice supersedes the notice forwarded to the FEDERAL REGISTER on March 8, 1978.

SUMMARY AGENDA

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Routine revisions and extensions of the following Federal Reserve forms: "Monthly Report on Foreign Branch Assets and Liabilities" (FR 502) and "Quarterly Report on Foreign Branch Assets and Liabilities" (FR 5028).

DISCUSSION AGENDA

1. Proposed statement to be presented to the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance and Urban Affairs regarding the selection of Federal Reserve Bank directors.

2. Proposed supervisory letter or amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve

System) with respect to the use of material non-public information by member bank personnel in the purchase or sale of securities.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: March 9, 1978.

GRIFFIN L. GARWOOD,
Deputy Secretary of the Board.

[S-548-78 Filed 3-10-78; 10:07 am]

[4110-39]

8

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

TIME AND DATE: March 17, 1978, 9:30 a.m. to 3:30 p.m.

CHANGE IN MEETING PLACE: The Hubert H. Humphrey Building, Room —, 200 Independence Avenue SW., Washington, D.C.

"FEDERAL REGISTER" CITATIONS OF PREVIOUS ANNOUNCEMENTS: S-443-78, Filed February 27, 1978; 9:53 a.m., March 1, 1978.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The agenda items remains the same. The time schedule for each item may change, please contact the Administrative Coordinator at the below telephone number on March 16 to confirm the time schedule, as well as the room number for the meeting.

CONTACT PERSON FOR MORE INFORMATION:

*Mrs. Ella L. Jones, Administrative Coordinator, telephone: 202-254-7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-549-78 Filed 3-10-78; 10:07 am]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 9407, March 7, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, March 9, 1978, 9:30 a.m. [NM-78-121].

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of

this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

STATUS: Open.

1. Pipeline Accident Report.—Alyeska Pipeline Service Co. Explosion and Fire, Pump Station 8 near Fairbanks, Alaska, July 8, 1977.

2. Recommendation.—To NHTSA re McAlester, Oklahoma, Highway Accident.

3. Recommendation.—To USCG and American Bureau of Shipping re Marine Accident involving Edmund Fitzgerald.

4. Letter.—To NBAA re flight operations manuals.

5. Recommendation.—To Federal Aviation Administration re CVR's and FDR's in corporate executive aircraft.

6. Discussion.—Candidate Special Studies for Board approval.

7. Discussion.—Closeout of Recommendation No. A-72-226.

8. Discussion.—Railroad Safety Recommendations.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-553-78 Filed 3-10-78; 12:44 pm]

[7600-01]

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 17, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: March 9, 1978.

[S-551-78 Filed 3-10-78; 10:07 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed March 9, 1978.

CHANGES IN THE MEETING: Additional items to be considered. At the open meeting scheduled for Thursday, March 16, 1978, at 10 a.m., the Commission will consider the following additional items:

1. Application for exemption from Securities Exchange Act Rule 15b10-9, the SECO self-underwriting rule, filed by Montgomery

Ward Securities, Inc. and consideration of the delegation of authority to the Director of the Division of Market Regulation to grant exemptions with respect to the self-underwriting rule.

2. Proposed rule amendments filed by the Chicago Board Options Exchange, Inc. concerning order priority and trading procedures.

3. Application of Dreyfus Money Market Instruments, Inc., requesting a temporary exemption from the provisions of Rule 22c-1, under the Investment Company Act of 1940 to the extent necessary to permit, subject to certain conditions, the fund's price per share to be rounded to the nearest one cent on a dollar pending final disposition of the matter.

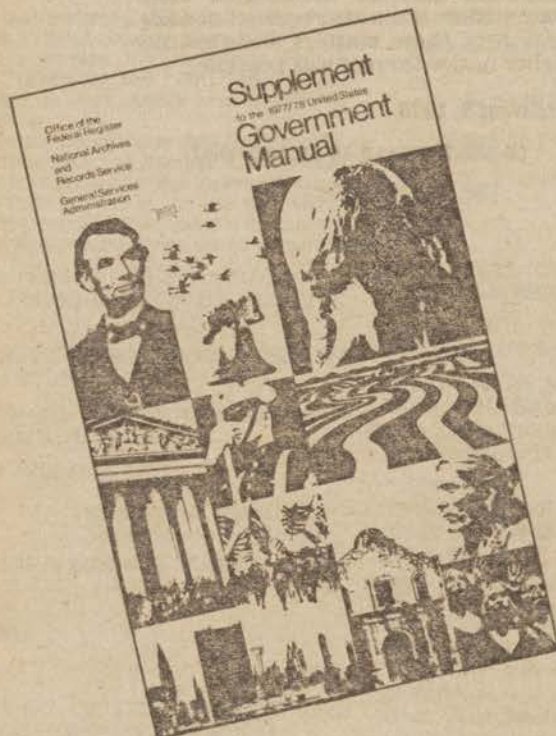
4. Request by American Home Products Corp. that the Commission review the Division of Corporation Finance's determination concerning a shareholder proposal submitted to the company by several religious groups under the coordination of the Interfaith Center on Corporate Responsibility.

Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

MARCH 9, 1978.

[S-552-78 Filed 3-10-78; 10:07 pm]

NOW AVAILABLE



SUPPLEMENT TO THE 1977/78 UNITED STATES GOVERNMENT MANUAL

A Special Edition of the Official Handbook of the Federal Government

The *Supplement* contains the changes in personnel and organization of the Federal Government which have occurred since May 1, 1977, the revision date of the 1977/78 *Manual*. Updated personnel listings for all agencies are included in the *Supplement* as well as descriptions of the programs and activities of the recently established Department of Energy and the Office of Administration within the Executive Office of the President.

Also included is a listing in Appendix A of the Federal agencies and functions affected by President Carter's reorganization of the Executive Office of the President and the establishment of the Department of Energy.

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