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federal register

MONDAY, MARCH 27, 1978

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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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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Title 3—The President

PROCLAMATION 4557

Pan American Day and Pan American Week, 1978

By the President of the United States of America

A Proclamation

For more than one hundred and fifty years the nations of the Western Hemisphere have recognized that peace and understanding can be achieved only if we are willing to put aside our differences and join together to solve our problems and share our opportunities. Drawing upon a common heritage and shared hopes for the future, the nations of the Americas constantly seek ways to strengthen their ties with each other. Their success in achieving these goals is due in large measure to the Organization of American States, the world's oldest regional organization.

Through the Organization of American States we in the Western Hemisphere have developed a unique system of cooperation which promotes political understanding, economic progress and social justice. An organization of great vitality and adaptability, it is now responding vigorously to the new challenges of the last quarter of the twentieth century. For these reasons, the United States continues, and will continue, to lend its full support to the Organization of American States and the Inter-American System. Accordingly, it is appropriate that we join with its other members in reaffirming our mutual commitment to friendship, trust and cooperation.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Friday, April 14, 1978, as Pan American Day, and the week beginning April 9, 1978 as Pan American Week and call upon all Americans to honor these observances with ceremonies and activities that will reflect the continuing commitment of the United States of America to a peaceful and productive relationship among the nations and peoples of the Western Hemisphere.

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

Jimmy Carter

[FR Doc. 78-8180 Filed 3-24-78; 11:07 am]

rules and regulations

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 1—ADMINISTRATIVE REGULATIONS

Investigatory Subpoenas

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document changes the title of the Director, Office of Investigation to the Inspector General in accordance with a reorganization of the Department that consolidated the Offices of Investigation and Audit into the Office of the Inspector General. In addition, it has been determined that the authority of the Inspector General to conduct timely and effective investigations is hampered by his inability to issue subpoenas in connection with investigations of any Departmental program where the Secretary is authorized by statute to issue a subpoena. This document, thus authorizes the Inspector General to issue investigatory subpoenas in connection with any investigation where a statute authorizes the issuance of such a subpoena.

EFFECTIVE DATE: March 27, 1978.

FOR FURTHER INFORMATION CONTACT:

James J. Scott, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7431.

SUPPLEMENTARY INFORMATION: Section 1.29 of Title 7, Code of Federal Regulations delegates authority to the Director, Office of Investigation, to issue subpoenas with respect to investigations involving the Federal Meat Inspection Act of the Poultry Products Inspection Act.

Accordingly, § 1.29 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) *Issuance of subpoena.* * * * Upon request of any representative of the Secretary involved in connection with the investigation, such subpoena may be issued by the Secretary, the Inspector General, or any Departmental official authorized pursuant to Part 2 of this title to administer the program to which the statute relates, if the official who is to issue the subpoena is satisfied as to the reasonableness of the grounds, necessity and scope thereof: *Provided, however,* That the authority to issue subpoenas may not be delegated or redelegated by the head of an agency. * * *

* * * * *

(5 U.S.C. 301.)

Done at Washington, D.C., this 21st day of March 1978.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 78-7973 Filed 3-24-78; 8:45 am]

[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 214—NONIMMIGRANT CLASSES

Extension of Stay for Nonimmigrant Visitors for Pleasure (B-2)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service which will make nonimmigrant visitors for pleasure eligible to apply for extensions of stay. This eligibility was withdrawn in 1975 because of a need to reduce the volume of applications for adjudication in the Examinations area due to manpower considerations. However, experience since that time has shown that this action did not save manhours in the Examinations area; rather, it tended to increase Service workloads in other operational areas. Therefore, eligibility to apply for extension of stay will be restored to nonimmigrant visitors for pleasure. In addition, these regulations will be amended to provide that the initial period of admission which may be authorized for either a visitor for pleasure or a visitor for business may be up to 1 year in the interest of uniformity of treatment for such visitors. Finally, the affected sections of these regulations will be redrafted for clarity of expression. These amendments are intended to benefit nonimmigrant visitors for business or pleasure by extending the period of initial admission to 1 year; to benefit the nonimmigrant visitor for pleasure by permitting him an opportunity to apply for extension of temporary stay; and to simplify the language of the regulation.

EFFECTIVE DATE: March 27, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On January 16, 1975, at 40 FR 2794, the Immigration and Naturalization Service published an amendment to 8 CFR 214.1(a) which made nonimmigrant alien visitors for pleasure ineligible for extension of stay. This rule became effective on February 16, 1975. The amendment was made because manpower considerations at that time required the Service to reduce its workload of applications requiring adjudication in the Examinations Division. Experience has shown that this action did not appreciably reduce the adjudications workload but shifted additional workloads to other Service operational activities, thus negating any manpower savings which may have resulted. For that reason, the Service is amending 8 CFR 214.1 to make nonimmigrant visitors for pleasure eligible to file applications for extension of stay.

Existing 8 CFR 214.2(b) provides that a B-1 visitor may be admitted for an initial period of not more than 6 months and may be granted extension of temporary stay in increments of not more than 6 months. The existing regulation also provides that a B-2 visitor shall ordinarily be admitted for a period of not more than 6 months, but may be admitted for a longer period not exceeding 1 year if the admitting immigration officer determines that emergent, compelling, or other special circumstances exist warranting such

longer admission period. This final rule will revise § 214.2(b) to provide that a B-1 or B-2 visitor may be admitted for an initial period of not more than 1 year and may be granted extension of temporary stay in increments of not more than 6 months. The remaining provisions of existing § 214.2(b) will be deleted as unnecessary.

Finally, the following editorial revisions will be made to § 214.1(a).

(a) The first sentence will be divided into several smaller sentences for clarity and simplification.

(b) The second sentence will be divided into smaller segments for clarity and designated as subparagraph (b) captioned "Readmission of nonimmigrant aliens to complete unexpired periods of admission or extension of stay."

(c) The third through eighth sentences will be designated as subparagraph (c) captioned "Extension of stay." This subparagraph will include the restoration of eligibility for B-2 visitors to obtain extension of stay, and will provide that applications for extension of stay for nonimmigrant aliens classified under sections 101(a)(15) (F) and (J) of the Act shall be filed on Form I-538 or DSP-66, respectively.

Also, existing 8 CFR 214.1(b) will be redesignated § 214.1(d), and § 214.1(c) will be redesignated § 214.1(e), and will be republished without change.

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

1. Section 214.1 is revised to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) *General.* Every nonimmigrant alien who applies for admission to, or an extension of stay in, the United States, shall establish that he is admissible to the United States, or that any ground of inadmissibility has been waived under section 212(d)(3) of the Act. Upon application for admission, the alien shall present a valid passport and valid visa unless either or both documents have been waived. However, an alien applying for extension of stay shall present a passport only if requested to do so by the Service. The passport of an alien applying either for admission or extension of stay shall be valid for a minimum of six months from the expiration date of the contemplated period of stay, unless otherwise provided in this chapter. A nonimmigrant alien applying for admission or extension of stay shall agree to abide by all the terms and conditions of his admission or extension. He shall also agree to depart the United States at the expiration of his authorized period of admission or extension, or upon abandonment of his authorized nonimmigrant status. At the time a nonimmigrant alien applies for admission or extension of stay he shall post a bond on Form I-352 in the sum of not less than $500, to insure the maintenance of his nonimmigrant status and his departure from the United States, if required to do so by the District Director, Immigration Judge, or Board of Immigration Appeals.

(b) *Readmission of nonimmigrants under section 101(a)(15) (F) or (J) to complete unexpired periods of previous admission or extension of stay.* A nonimmigrant applying for readmission to the United States under section 101(a)(15) (F) or (J) of the Act whose nonimmigrant visa is considered automatically revalidated pursuant to 22 CFR 41.125(f) shall, if otherwise admissible, be admitted for the unexpired period of stay authorized prior to his earlier departure, if he satisfies the following conditions: (1) he is applying for readmission after an absence from the United States not exceeding 30 days solely in contiguous territory or adjacent islands; (2) he is in possession of a valid passport; and (3) he presents, or is the accompanying spouse or child of the alien who presents, a Form I-94, a current Form I-20, or a current Form DSP-66, as appropriate, issued to him in connection with his previous admission or stay. Such Form I-94, Form I-20, or Form DSP-66 must show the unexpired period of the alien's stay properly endorsed by the Service, school official, or exchange program sponsor.

(c) *Extension of stay.* The nonimmigrant alien defined in section 101(a)(15)(A) (i) or (ii) or (G) (i), (ii), (iii), or (iv) of the Act is admitted for as long as such alien continues to be so recognized by the Secretary of State, and is not required to obtain extension of stay. The nonimmigrant alien defined in section 101(a)(15) (C), (D), or (K) of the Act, or who was admitted in transit without visa, is ineligible for extension of stay. Nonimmigrant aliens defined in section 101(a)(15) (F) and (J) of the Act shall apply for extension of stay only on Form I-538 and Form DSP-66, respectively. Aliens in all other nonimmigrant classes shall apply for extension of stay on Form I-539. The application should be submitted at least fifteen days and not more than sixty days prior to expiration of the currently authorized stay; and it may be granted or denied by the district director or officer in charge. There shall be no appeal from his decision. A separate application must be executed and submitted for each alien seeking extension of stay; however, regardless of whether or not they accompanied the applicant to the United States, the spouse and minor unmarried children having the same nonimmigrant classification may be included in the application without additional fee. Extensions granted to members of a family group shall be for the same period; if one member is eligible for only a six-month extension and another for a twelve-month extension, the shorter period shall govern. If failure to file a timely application is found to be excusable, an extension of stay may be granted but it shall date from the time of expiration of the previously authorized stay. When because of conditions beyond his/her control or other special circumstances, a nonimmigrant needs an additional period of less than thirty days beyond the previously authorized stay within which to effect departure, such time may be granted without the filing of a formal application. For procedures on cancellation and breaching of bonds, see Part 103 of this chapter.

(d) *Termination of Status.* * * *

(e) *Employment.* * * *

2. Section 214.2(b) will be revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(b) *Visitors.* The classification of visitors in the Act has been subdivided for visa, admission, and extension purposes into visitors for business (B-1) and visitors for pleasure (B-2). A B-1 or B-2 visitor may be admitted for an initial period of not more than 1 year and may be granted extensions of temporary stay in increments of not more than 6 months.

* * * * *

(Secs. 103, 214(a); (8 U.S.C. 1103, 1184(a)).)

These amendments are published in accordance with section 552 of Title 5 of the U.S. Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the U.S. Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the substantive amendments relieve restrictions and confer benefits on the persons affected thereby, and the revisions to the language of the regulation are editorial in nature.

Effective date. The amendments prescribed in this order become effective on March 27, 1978.

Dated: March 21, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-7926 Filed 3-24-78; 8:45 am]

[1505-01]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 78-EA-8]

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

Alteration of Terminal Control Area; New York, N.Y.

Correction

In FR Doc. 78-3522 appearing at page 8507 in the issue for Thursday, March 2, 1978, and corrected at page 10340 in the issue for Monday, March 13, 1978, in the second line from the bottom, "B" should read "J".

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

Request for Notification of COCOM Review of Application

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final Rule.

SUMMARY: Certain proposed transactions involving the export or reexport of strategic commodities or technical data to destinations in Country Groups Q, W, and Y[1] must be referred to the international security export control system through its Coordinating Committee (COCOM). This process usually requires five weeks *in addition to* the normal processing time for a QWY destination application. Because some applicants whose commodities have a long production lead time may wish to be informed when this referral takes place, the Export Administration Regulations are revised to provide a uniform means of making such a request.

EFFECTIVE DATE OF ACTION: March 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

Accordingly, Part 370 of the Export Administration Regulations (15 CFR Part 370) is amended by adding a new § 370.11(c) to read as follows:

§ 370.11 Information to exporters.

* * * * *

(c) *Request for Notification of COCOM Review of Application.* (1) The United States participates in an international security export control system. The Coordinating Committee (COCOM) of this system reviews proposed transactions to export or reexport certain strategic commodities or technical data to Country Groups Q, W, and Y. Referral to COCOM will add approximately five weeks to the usual QWY processing time.

(2) Upon request, the Office of Export Administration will inform the applicant when the proposed transaction set forth in a specific application has been forwarded to the Coordinating Committee. To request such notification, enter the phrase "COCOM Referral Notification Requested" in Item 12 of Form DIB-622P, Application for Export License, or in Item 10 of Form DIB-699P, Request to Dispose of Commodities or Technical Data Previously Exported, as appropriate. If a reexport authorization request is made by letter, include the request in the letter.

* * * * *

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-7990 Filed 3-24-78; 8:45 am]

[1] Country Group Q consists of Romania; Country Group W consists of Poland; and Country Group Y consists of Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic (including East Berlin), Hungary, Laos, Latvia, Lithuania, Outer Mongolia, People's Republic of China (excluding Republic of China), and Union of Soviet Socialist Republics.

[1505-01]

Title 20—Employee's Benefits

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

[Regulation No. 4]

PART 404—FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE (1950 ——)

Deleting Out-of-Date Regulations

Correction

In FR Doc. 77-37004, appearing at page 64886 in the FEDERAL REGISTER of Thursday, December 29, 1977, at page 64888 in § 404.1013(e), the word "expected" in the introductory text and subparagraph (2) should be changed to "excepted."

[4210-01]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 4038]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The date listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance

as a condition of Federal financial assistance if such assistance is: (1) for acquisition and construction purposes, and (2) for property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the list below.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of Suspended Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
California	San Joaquin	Lodi, city of	Mar. 24, 1972, emergency; Mar. 1, 1978, regular; Apr. 3, 1978, suspended.	Apr. 5, 1974 Oct. 3, 1975	060300B
Do	Contra Costa	Martinez, city of	Dec. 31, 1970, emergency; Mar. 15, 1974, regular; Apr. 3, 1978, suspended.	June 28, 1974	065044A
Georgia	Carrol	Carrollton, city of	Mar. 13, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	May 24, 1974 Jan. 23, 1976	130208B
Iowa	Clayton	Marquette, city of	June 16, 1971, emergency; Jan. 21, 1972; regular; Apr. 3, 1978, suspended.	Jan. 19, 1972	195182-C
Kentucky	Campbell	California, city of	July 3, 1975, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Mar. 15, 1974	210036-A
Louisiana	Caldwell Parish	Unincorporated areas	May 2, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	.....	220044-A
Do	Concordia Parish	.....do	Apr. 30, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	.....	220053-A
Do	.....do	Ridgecrest, town of	Apr. 30, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	May 24, 1974 Dec. 5, 1975	220046-B
Do	Tensas Parish	Unincorporated areas	Sept. 6, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Sept. 6, 1974	220215-A
Do	West Baton Rouge Parish	.....do	Apr. 30, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	.....	220239-A
Michigan	Berrien	Benton, township of	Apr. 19, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	June 28, 1974 Mar. 5, 1976	260031-B
Do	.....do	Grand Beach, village of	——, emergency; Feb. 15, 1978, regular; Apr. 3, 1978, suspended.	June 28, 1974	260268-A
Do	Huron	Lake, township of	Jan. 30, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Jan. 31, 1975	260254-B
Do	Mushegon	Laketon, township of	June 25, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Aug. 2, 1974 June 25, 1976	260159-B
Do	Berrien	Sodus, township of	Jan. 23, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Aug. 2, 1974 June 25, 1976	260046-B
Minnesota	Scott	Unincorporated areas	Apr. 14, 1972, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Dec. 20, 1974	270428-A
Mississippi	Hinds	Bolton, town of	July 30, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Apr. 22, 1977	280216-B
Do	Leflore	Itta Bena, city of	Jan. 17, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	June 7, 1974	280103-B
Do	.....do	Morgan City, town of	Mar. 1, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Nov. 29, 1974 Oct. 24, 1975	280104-B
Do	Carroll	North Carrollton, town of	June 16, 1975, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	June 7, 1974 July 16, 1976	280028-B
Do	Terry Hinds	Unincorporated areas	May 27, 1975, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Feb. 1, 1974 Feb. 20, 1976	280073-B
Missouri	Jackson	Lees's Summit, city of	Feb. 4, 1972, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	June 21, 1974 Dec. 5, 1975	290174-B
Do	Clay	North Kansas City, city of	Oct. 29, 1971, emergency; Mar. 5, 1976, regular; Apr. 3, 1978, suspended.	Mar. 15, 1974 Nov. 28, 1975	290099-B
Nebraska	Thurston	Pender, village of	Sept. 20, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	May 3, 1974 July 23, 1976	310221-B
North Carolina	Pasquotank	Elizabeth City, city of	June 20, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Nov. 9, 1973 Oct. 3, 1975	370185-B
Do	Cleveland	Shelby, city of	Jan. 17, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Jan. 9, 1974 July 23, 1976	370064-B
New Jersey	Passaic	Bloomingdale, borough of	Oct. 2, 1970, emergency; Mar. 10, 1972, regular; Apr. 3, 1978, suspended.	Mar. 19, 1972 July 9, 1976	345284-B
Do	Ocean	Brick, township of	June 30, 1970, emergency; Aug. 4, 1972, regular; Apr. 3, 1978, suspended.	Aug. 4, 1972 June 10, 1977	345285-B
Do	Burlington	Burlington, city of	Aug. 7, 1970, emergency; July 23, 1971, regular; Apr. 3, 1978, suspended.	July 23, 1971 Feb. 20, 1976 July 29, 1977	345287-B

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Do	Mercer	Ewing, township of	Oct. 2, 1970, emergency; Aug. 25, 1972, regular; Apr. 3, 1978, suspended.	Aug. 25, 1972 Jan. 30, 1976	345294-A
Do	Monmouth	Highlands, borough of	Dec. 11, 1970, emergency; Sept. 3, 1971, regular; Apr. 3, 1978, suspended.	Sept. 3, 1971 June 30, 1976	345297-A
Do	Atlantic	Ventnor, city of	Aug. 7, 1970, emergency; June 18, 1971, regular; Apr. 3, 1978, suspended.	June 18, 1971 Dec. 26, 1975	345326-A
Do	Cape May	West Wildwood, borough of.	Sept. 11, 1970, emergency; Dec. 31, 1970, regular; Apr. 3, 1978, suspended.	Jan. 8, 1971 Oct. 17, 1975	345328-B
Do	....do	Wildwood Crest, borough of..	July 31, 1970, emergency; Feb. 26, 1971, regular; Apr. 3, 1978, suspended.	Feb. 26, 1971 Dec. 26, 1975	345330-A
New York	Jefferson	Alexandria Bay, village of	June 21, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Feb. 22, 1974	390154-B
Ohio	Cuyahoga	Gates Mills, village of	June 4, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Nov. 9, 1973 May 28, 1976	390593-B
Oregon	Curry	Unincorporated areas	Mar. 19, 1971, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Sept. 13, 1974	410052-B
Pennsylvania	Lycoming	Jersey Shores, borough of	Oct. 27, 1972, emergency; Mar. 5, 1976, regular; Apr. 3, 1978, suspended.	Apr. 6, 1973 Mar. 5, 1976	420642-C
Do	Lawrence	Shenango, township of	Jan. 28, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	June 14, 1974 May 21, 1976	421029-B
Do	Bucks	Upper Southampton, township of.	Oct. 4, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Jan. 16, 1974 May 28, 1976	420089-B
Tennessee	Ludon	Loudon, city of	Dec. 17, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Feb. 1, 1974 Oct. 8, 1976	470110-B
Texas	Jackson	Edna, city of	Jan. 29, 1971, emergency; Nov. 12, 1971, regular; Apr. 3, 1978, suspended.	Nov. 11, 1971 Apr. 18, 1975	485465-B
Do	Galveston	Unincorporated areas	Apr. 8, 1971, emergency; Apr. 9, 1971, regular; Apr. 3, 1978, suspended.	Apr. 8, 1971 May 15, 1973 June 24, 1977	485470-B
Do	Matagorda	....do	June 19, 1971, emergency; Apr. 30, 1971, regular; Apr. 3, 1978, suspended.	May 1, 1971 Mar. 5, 1976	485489-A
Do	....do	Palacios, city of	Aug. 7, 1970, emergency; Nov. 13, 1970, regular; Apr. 3, 1978, suspended.	Nov. 17, 1970 July 11, 1975	485495-B
Do	Victoria	Victoria, city of	May 22, 1970, emergency; July 23, 1971, regular; Apr. 3, 1978, suspended.	May 22, 1970 July 23, 1971	480638-B
Virginia	Wythe	Wytheville, town of	Nov. 29, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	June 28, 1974 May 21, 1976	510181-B
Washington	Snohomish	Everett, city of	Dec. 17, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	June 21, 1974	530164-A
Wisconsin	Door	Unincorporated areas	Apr. 30, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Dec. 13, 1974	550109-A
Do	Winnebago	Menasha, city of	Apr. 25, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Nov. 16, 1974 May 28, 1976	550510-B
Do	Manitowoc	Two Rivers, city of	Aug. 22, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended.	Jan. 9, 1974 June 4, 1976	550243-B

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969), as amended 39 FR 2787, Jan. 24, 1974.

Issued: March 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7862 Filed 3-24-78; 8:42 am]

[4810-35]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

PART 223—SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Revision of Regulations Relating to Application and Renewal Fees

AGENCY: Bureau of Government Financial Operations.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is amending its regulations relating to surety companies doing business with the United States in order to delete references to fee amounts. Fees charged to surety companies applying for, or seeking renewal of, certificates of authority to do business with the United States usually change annually and associated rulemaking requirements have been found to significantly impede agency operations. Deletion of the fee amounts from the regulations is intended to improve the timeliness of agency actions relating to surety company certificates of authority.

EFFECTIVE DATE: March 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Newell, Audit Staff (Surety), Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226, 202-634-5978.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 16, 1978, at pages 6812 and 6813, there was published a notice of proposed rulemaking to amend 31 CFR Part 223 (also appearing as Department Circular 297). Interested parties were given 20 days ending on March 8, 1978, in which to submit written views or comments with regard to the amendments. As no written views or comments were received during the 20-day period, the Department finds that there is no good cause to postpone the proposed amendments' effective date. Accordingly, the proposed amendments to Part 223 of 31 CFR, Chapter II are hereby adopted as follows:

1. By revising the third sentence of § 223.2 to read as follows:

§ 223.2 Application for certificate of authority.

* * * A fee shall be transmitted with the application in accordance with the provisions of § 223.22(a)(1).

2. By revising the second sentence of paragraph (a) of § 223.3 to read as follows:

§ 223.3 Issuance of certificates of authority.

(a) * * * A new certificate of authority shall be issued annually on the first day of July, so long as the company remains qualified under the law and the regulations in this part, and transmits to the Assistant Comptroller for Auditing by March 1 each year the fee in accordance with the provisions of § 223.22(a)(3).* * *

* * * * *

3. By revising § 223.12 to read as follows:

§ 223.12 Recognition as reinsurer.

(a) *Application by U.S. company.* Any company organized under the laws of the United States or of any State thereof, wishing to apply for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States, shall file the following data with the Assistant Comptroller for Auditing and shall transmit therewith the fee in accordance with the provisions of § 223.22(a)(2).
(1) * * *

* * * * *

(b) *Application by a U.S. branch.* A U.S. branch of an alien company applying for such recognition shall file the following data with the Assistant Comptroller for Auditing and shall transmit therewith the fee in accordance with the provisions of § 223.22(a)(2).
(1) * * *

* * * * *

(c) * * * A fee shall be transmitted with the foregoing data, in accordance with the provisions of § 223.22(a)(4).

4. By amending § 223.22 to read as follows:

§ 223.22 Fees for services of the Treasury Department.

(a) Fees shall be imposed and collected, for the services listed in paragraphs (a)(1)-(a)(4) of this section which are performed by the Treasury Department, regardless of whether the action requested is granted or denied. The payee of the check or other instrument shall be the Bureau of Government Financial Operations, Treasury Department. The amount of the fee will be based on which of the following categories of service is requested:

(1) Examination of a company's application for a certificate of authority as an acceptable surety on Federal bonds or for a certificate of authority as an acceptable reinsuring company on such bonds (see § 223.2);

(2) Examination of a company's application for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States (see § 223.12 (a) and (b));

(3) Determination of a company's continuing qualifications for annual renewal of its certificate of authority (see § 223.3); or

(4) Determination of a company's continuing qualifications for annual renewal of its authority as an admitted reinsurer (see § 223.12(c)).

(b) In a given year a uniform fee will be collected from every company requesting a particular category of service, e.g., determination of a company's continuing qualifications for annual renewal of its certificate of authority. However, the Treasury Department reserves the right to redetermine the amounts of fees annually. Fees are determined in accordance with Office of Management and Budget Circular A-25, as amended.

(c) Specific fee information may be obtained from the Assistant Comptroller for Auditing at the address shown in § 223.2. In addition, a notice of the amount of a fee referred to in § 223.22 (a)(1)-(a)(4) will be published in the FEDERAL REGISTER as each change in such fee is made.

Dated: March 17, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-7957 Filed 3-24-78; 8:45 am]

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER G—CIVIL DEFENSE

[DOD Directive 5154.4]

PART 186—DOD EXPLOSIVE SAFETY BOARD (DDESB)

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is codifying certain of its operational organizational and procedural rules which are currently in use by DOD. This issuance establishes the DOD Explosive Safety Board to provide impartial and objective advice on ammunition and explosives manufacturing.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Howard Metcalf, OASD (MRA&L) ID Room 3E763, Pentagon, Washington, D.C. 20310, telephone 202-695-2713.

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

MARCH 22, 1978.

Accordingly, 32 CFR Chapter I is amended by adding a new Part 186, reading as follows:

Sec.
186.1 Reissuance and purpose.
186.2 Definitions.
186.3 Composition and administration.
186.4 Functions.
186.5 Responsibilities.
186.6 Relationships.
186.7 Authorities.

AUTHORITY: Title 10, U.S.C., Sec. 172.

§ 186.1 Reissuance and purpose.

This part is issued to clarify administrative authorities of the DOD Explosive Safety Board (DDESB), which was established pursuant to the authority vested in the Secretary of Defense and in accordance with Title 10, United States Code, Section 172 as a joint activity of the Department of Defense, subject to the direction, authority, and control of the Secretary of Defense.

§ 186.2 Definitions.

For purposes of this part, the following definitions apply.

(a) *Ammunition and explosives*—(1) Include, but are not necessarily limited to, all items of ammunition; chemical propellants, liquid and solid; high and low explosives; guided missiles; warheads; devices; signals; components thereof, including chemical agent fillers and substances associated therewith presenting real or potential hazards to life and property.

(2) Do not encompass wholly inert items; liquid fuels; nuclear bombs, warheads, devices and radiological fillers, except for considerations of blast, fire, and non-nuclear fragment hazards associated with the chemical high explosives contained therein.

(b) *DOD Components.* The Military Departments and the Defense Agencies.

§ 186.3 Composition and administration.

(a) The DOD Explosives Safety Board is composed of a Chairman and a member from each of the Military Departments.

(1) The Chairman shall be appointed by the Secretary of the Army with the concurrence of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD (MRA&L)) from officers in the grade of 0-6 or higher nominated by one of the Military Departments. The Chairman will serve for a minimum period of 3 years. The office of Chairman will be rotated equitably among the Military Departments. The Chairman's effectiveness of performance will be evaluated by the ASD (MRA&L) or his designee.

(2) The Secretary of each Military Department shall select and assign one qualified officer in the grade of 0-6 or higher to serve as a member of the Board in addition to assigned Department duties. Also, each Secretary shall assign an alternate who, in the absence of his principal, will act for the member, with plenary powers. The alternate may be a qualified civilian employee of the Military Department.

(3) The Directors of appropriate Defense Agencies will designate a knowledgeable individual from each of their Agencies who, in addition to assigned agency duties, will serve as a nonvoting member of the Board when the business before the Board is of particular interest to that Agency.

(b) The DDESB shall be supported by a permanent Secretariat composed of those qualified personnel required for the effective discharge of DDESB responsibilities as determined by the Secretary of the Army or his designee, in consultation with the Chairman. If military staff members are assigned, they shall be apportioned equitably among the Military Departments.

§ 186.4 Functions.

The DOD Explosives Safety Board shall:

(a) Provide impartial and objective advice to the Secretary of Defense, the Secretaries of the Military Departments, and the Directors of the Defense Agencies on ammunition and explosives manufacturing, testing, handling, reworking, developing, disposal, transportation, and storage, and on the siting of facilities within the United States and overseas when under U.S. jurisdiction. This advice shall be structured to prevent conditions that will endanger life and property, both inside and outside DoD installations. With respect to ammunition or explosives to which the United States holds title but which are located in overseas areas and are not in U.S. custody and under effective U.S. control, this function shall be carried out to the extent consistent with agreements or arrangements with the host country concerned.

(b) Recommend to the ASD (MRA&L), for approval, DOD-wide safety standards designed to prevent or eliminate hazardous conditions associated with ammunition and explosives.

(c) With the assistance of the DOD Components, establish joint regulations for explosives hazard classification procedures; arbitrate or otherwise resolve differences resulting from or pertinent to the assignment of hazard classifications.

(d) Maintain liaison with other Government departments, allied Governments, and industrial organizations having mutual interests or responsibilities.

(e) Keep informed of DOD Components' safety problems relating to ammunition and explosives development, manufacture, testing, handling, transportation, storage, maintenance, rework, salvage, and disposal.

(f) Survey, study, and evaluate activities to determine compliance with ammunition and explosives safety standards and to detect conditions which could result in undue loss of life or damage to property inside and outside DOD installations.

(g) Review and analyze reports, data, and information on ammunition and explosives hazards, accidents, and safety (nuclear excepted); make appropriate recommendations to proper authorities for the establishment or revision of standards and procedures.

(h) Review and approve the safety aspects of all general site plans for construction or modification of fixed or movable ammunition and explosives facilities, including site plans for facilities in their proximity. Facilities being constructed under combat conditions or the immediate expectations of combat conditions are exempted from this requirement. With respect to any site plans providing less than desirable safety, a certification by the Secretary or Director of the Component involved that such siting is essential because of operational necessity or other compelling reason, together with adequate justification, will be required.

(i) Prepare programs of investigation, research, study, and tests concerning ammunition and explosives hazards, required to develop and maintain safety standards, and execute such portions of these programs as are approved by the Office of the Secretary of Defense.

(j) Perform any duties assigned by the ASD (MRA&L) or the Secretary of the Army.

§ 186.5 Responsibilities.

(a) The Secretaries of the Military Departments and the Directors of the Defense Agencies, or their designees, shall:

(1) Provide the DDESB with information and support, necessary to discharge its assigned responsibilities and functions. Explosive and chemical agent mishap reporting requirements are set forth in DOD Instruction 1000.19.[1]

(2) Submit to the DDESB, for review and approval, general site plans for construction or modification of pertinent facilities, outlining the type and character of the proposed construction. Such site plans normally will be submitted to the DDESB prior to inclusion of the project in proposed legislation for the current budget year.

(3) Set interim safety standards for the manufacture, storage, and handling of ammunition and explosives pending the establishment of DOD-wide standards.

(4) Comply with the DOD safety standards. Inability to comply with these standards for strategic or other compelling reasons may require a waiver or exemption by the affected DOD Components. Responsibility for waivers or exemptions rests with the Secretary of the Military Department or the Director of the Defense Agency.

(5) Provide qualified personnel for DDESB working groups when requested by the Chairman, DDESB.

(6) Perform those tests and evaluations necessary to the assignment of explosives hazard classifications in accordance with the joint regulations. They will include:

(i) Military handling and storage hazard class and compatibility group.

(ii) Transportation hazard class, commodity description and markings.

NOTE.—In the event of inability to comply with the provisions of this paragraph or the joint regulations or, in the case of unresolved differences between responsible DOD Components, submit complete documentation to the DDESB for resolution.

(b) As Executive Agent, the Secretary of the Army shall determine and provide adequate administrative support (including budgeting, funding, fiscal control, manpower control and utilization, personnel administration, security, administrative provisions and services) for the operation of the Board and its Secretariat. This responsibility may be further delegated to the Under Secretary of the Army or to an Assistant Secretary of the Army.

(c) The Chairman, DDESB shall:

(1) Preside at DDESB meetings or, in his absence, designate an appropriate member to preside.

(2) Establish or maintain a system, consistent with the provisions of DOD Directive 5000.19,[1] which will provide the Secretary of Defense and the Secretaries of the Military Departments with current information on all matters falling within DDESB jurisdiction.

(3) Exercise the power of decision, as appropriate, on any matter within

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

DDESB jurisdiction on which other DDESB members are not unanimous. A DOD Component may initiate a written appeal from any such decision of the Chairman to the Assistant Secretary of Defense (MRA&L) for review and final decision.

(4) Manage and evaluate the activities and personnel of the Secretariat.

(5) Establish and direct the activities of temporary working groups, as appropriate, to assist the DDESB.

§ 186.6 Relationships.

The Chairman and Board members, and the Secretariat (under the direction of the Chairman) are authorized and expected, on a technical level, to exercise free and unrestricted access to and direct communication with all DOD elements as well as other U.S. governmental, foreign, and private organizations having a mutual interest or responsibility in safety matters that involve ammunition and explosives. In exercising this technical relationship with foreign governments, agencies, or organizations, the Chairman and Board members shall observe such policy and procedural guidance as may be prescribed by the responsible chief of diplomatic mission and the senior U.S. military representative in the country. With regard to nuclear weapons, access and communication will be in accordance with the established procedures of the Defense Nuclear Agency and the Department of Energy.

§ 186.7 Authorities.

(a) The Secretary of the Army is hereby designated Executive Agent for the administrative support of the DDESB and its Secretariat.

(b) The publication by the ASD (MRA&L) of the standards is hereby authorized.

[FR Doc. 78-7955 Filed 3-24-78; 8:45 am]

[3810-70]

SUBCHAPTER M—MISCELLANEOUS

[DOD Instruction 5210.25]

PART 256—ASSIGNMENT OF AMERICAN NATIONAL RED CROSS AND UNITED SERVICE ORGANIZATIONS (USO) EMPLOYEES TO DUTY WITH THE ARMED FORCES

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is codifying certain of its operational, organizational, and procedural rules which are currently in use by DOD. This issuance incorporates policy and procedures governing the investigation of American National Red Cross employees and United Service organizations (USO) staff and for determining the security acceptability of such personnel for assignment to duty with the Armed Forces.

EFFECTIVE DATE: November 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. William Bell, OASD(C) Security Policy, Pentagon, Washington, D.C. 20310, telephone 202-697-3969.

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

MARCH 22, 1978.

Accordingly, 32 CFR Chapter I is amended by adding a new Part 256, reading as follows:

Sec.
256.1 Purpose.
256.2 Applicability and scope.
256.3 Definition.
256.4 General Policy.
256.5 Exceptions.
256.6 Procedures.

AUTHORITY: Pub. L. 131, 83rd Congress and 5 U.S.C. 301.

§ 256.1 Purpose.

This Part sets forth DOD policy and procedures (a) governing the investigation of American National Red Cross employees and United Service Organizations (USO) staff, and (b) for determining the security acceptability of such personnel for assignment to duty with the Armed Forces.

§ 256.2 Applicability and scope.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Defense Logistics Agency, the Defense Investigative Service, and the Unified and Specified Commands, worldwide.

§ 256.3 Definition.

The term "employee" as used in this Part denotes any salaried individual serving with, or employed by, the Red Cross or USO who is subject to assignment for overseas duty with the Armed Forces.

§ 256.4 General policy.

(a) A National Agency Check shall be conducted on Red Cross or USO employees. A favorably completed National Agency Check is a prerequisite to an employee being nominated for assignment with the Armed Forces overseas.

(b) An employee will not be assigned for duty with the Armed Forces overseas nor continued in such an assignment when it has been determined that such assignment or continuation of assignment is not clearly consistent with the national interest.

(c) The standard and criteria for determining the security acceptability of an employee for assignment or continuation of assignment with the Armed Forces overseas shall be identical to those established for making security clearance determinations for personnel employed in private industry under the Defense Industrial Security Program in sections IV and V of DOD Directive 5220.6.[1]

§ 256.5 Exceptions.

This part is not intended to apply overseas to employees who are foreign nationals. In such instances, policy and procedures with regard to investigation and security acceptability will be determined by the Military Department having primary interest.

§ 256.6 Procedures.

(a) Upon receipt from the Red Cross or USO of the completed, required security forms, the Defense Industrial Security Clearance Office (DISCO), will forward such forms to the Defense Investigative Service for accomplishment of the National Agency Check.

(b) The results of the National Agency Check will be returned to the DISCO which will make a determination as to the security acceptability of the employee. If such determination is favorable, the DISCO will provide a statement to such effect to the Red Cross or the USO. If DISCO is unable to make a favorable security acceptability determination, the procedures prescribed in (c)(3) below will apply.

(c) Whenever there is developed or received by any Department, Command or Agency, including the Red Cross or USO, information indicating that an employee's assignment or continuation of assignment with the Armed Forces overseas may not be clearly consistent with the national interest, such information shall be furnished to the DISCO for appropriate review.

(1) After such review, the DISCO will be responsible for arranging with the Defense Investigative Service for the conduct of any investigation which may be warranted to resolve the adverse or questionable information.

(2) In cases arising subsequent to the security acceptability determination, the DISCO will review the information and/or report of investigation to determine whether the security acceptability determination is to continue in effect. If such adjudication is favorable, no further action is required.

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

The Red Cross or USO will not be notified in such cases.

(3) If after reviewing the information and/or the report of investigation, the DISCO is unable to make a favorable security acceptability determination, the case shall be referred for further processing in accordance with DOD Directive 5220.6.[1]

[FR Doc. 78-7954 Filed 3-24-78; 8:45 am]

[3810-71]

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER B—NAVIGATION

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Amendent

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department is amending its certifications and exemptions to reflect that the Secretary of the Navy has determined that U.S.S. *Groton* (SSN 694) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners on waters where the 72 COLREGS apply.

EFFECTIVE DATE: March 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander M.D. Seiders, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C. 20370, 202-694-5188.

SUPPLEMENTARY INFORMATION: This amendment to part 706 provides notice that the Secretary of the Navy has certified that U.S.S. *Groton* (SSN 694) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of the masthead light; Rule 21(b) regarding the arc of visibility of the sidelights; Rule 21(c) regarding the arc of visibility and location of the stern light; Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 3(b) regarding the location of the sidelights; and, Annex I, section 2(k) regarding the height of the anchor lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that U.S.S. *Groton* (SSN 694) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to U.S.S. *Groton*.

It has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military functions. Accordingly, 32 CFR part 706 is amended as follows:

1. The third Table One of § 706.2 is amended by inserting the following between "U.S.S. *Cincinnati* SSN-693 3.49" and "U.S.S. *George Washington* SSBN-598 4.11":

Vessel	No.	Distance in meters of forward masthead light below minimum required height. (Sec. 2(a)(i) Annex I)
•	•	•
U.S.S. *Groton*.	SSN-694.....	3.45
•	•	•

2. The fourth Table Three of § 706.2 is amended by inserting the following between "USS *Cincinnati* SSN-693——— 209° 4.3 6.1 3.4 1.6 below" and "USS *George Washington* SSBN-598 240° 118° 255° 3.8 46.0 2.1 0.6 below":

Vessel	Number	Masthead light, arc of visibility; rule 21(a)	Sidelights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Sidelights, distance inboard of ship's sides in meters; sec. 3(b), annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; sec. 2(K), annex I	Anchor lights, relationship of aft light to forward light in meters; sec 2(K), annex I
•	•	•	•	•	•	•	•	•
USS *Groton*.....	SSN-694.....	226°55'	118°37'	219°	4.3	6.6	3.5	1.7 below.
•	•	•	•	•	•	•	•	•

Effective date: The effective date of this amendment will be March 24, 1978.

Dated: March 17, 1978.

R. JAMES WOOLSEY,
Acting Secretary of the Navy.

[FR Doc. 78-7967 Filed 3-24-78; 8:45 am]

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

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 2 78 01]

PART 165—Safety Zones

Safety Zone—Ohio River, Mile 731.0 to 775.0, Indiana

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone regulations, establishes safety zones on the Ohio River. These safety zones are established for the protection of the facilities in these areas.

EFFECTIVE DATE: This amendment is effective from 12 noon c.s.t., February 17, 1978 to 12 noon c.s.t. March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Commander L. N. Gregg, U.S. Coast Guard Marine Safety Office, P.O. Box 1153, Room 360A, 600 Federal Place, Louisville, Ky. 40201, 901-521-3941.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking because the short amount of time available to establish this safety zone made publishing impractical.

DRAFTING INFORMATION

The principal person involved in the drafting of this rule is: CDR Leeland N. Gregg, Captain of the Port, Louisville, Ky.

In consideration of the foregoing, part 165 of title 33 of the Code of Federal Regulations is amended by adding section 165.201, to read as follows:

Section 165.201. Pursuant to the authority contained in section 1224 of title 33 of the U.S. Code and part 165 of title 33 of the Code of Federal Regulations, the Coast Guard Captain of the Port, Louisville, Ky. has established a safety zone consisting of all of the waters of the Ohio River in the following areas:

A. Troy Terminal, Troy, IN Mile 731.0 to Mile 732.0, right descending bank Ohio River, extending 500 feet outward from the Indiana shoreline.

B. Three States Coal Co., Grandview, IN, Mile 743.5 to Mile 744.5, right descending bank, Ohio River extending 500 feet outward from the Indiana shoreline.

C. B & M Coal Co., Rockport, IN Mile 745.7 to Mile 746.7 right descending bank, Ohio River extending 500 feet outward from the Indiana shoreline.

D. Mid-America Terminal of Kentucky, Rockport, IN, Mile 749.5 to Mile 750.5, left descending bank, Ohio River, extending 500 feet from the Kentucky shoreline.

E. Aluminum Co. of America, Yankeetown, IN, Mile 772.5 to Mile 775.0, right descending bank, Ohio River, extending 500 feet outward from the Indiana shoreline.

This safety zone will be in effect from 12 noon c.s.t., February 17, 1978 to 12 noon c.s.t., March 31, 1978. These safety zones are established for the protection of the facilities in these areas. No person or vessel may enter or remain in the safety zone without the permission of the Captain of the Port, Louisville, Ky. Each person in the safety zone who has notice of a lawful order or direction shall obey the order or direction of the Captain of the Port, Louisville, Ky. or his authorized representative.

Any person who willfully violates this safety zone is subject to a fine of not less than $5,000 or more than $50,000 or imprisonment, for not more than 5 years, or both. Any person who fails to comply with the regulations establishing a safety zone is subject to a civil penalty of not more than $10,000.

(86 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46(n)(4).)

LEELAND N. GREGG,
Commander, U.S. Coast Guard, Captain of the Port, Louisville, Ky.

[FR Doc. 78-7992 Filed 3-24-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 872-5; OPP-260018A]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Asulam; Correction

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

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 8969 in the FEDERAL REGISTER of Tuesday, March 2, 1976, (FR Doc. 76-5960).

EFFECTIVE DATE: March 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Mountfort, Product Manager (PM) 23, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460, 202-755-1397.

SUPPLEMENTARY INFORMATION: In FR Doc. 76-5960, appearing at page 8969 in the issue of Tuesday, March 2, 1976, the pesticide chemical asulam (methyl sulfanilylcarbamate) was incorrectly listed as a cholinesterase-inhibiting compound although it does belong to the class of pesticides called carbamates, which include cholinesterase-inhibitors. (In addition, the chemical name of asulam was incorrectly spelled as "methyl sulfanilylycarbamate" instead of "methyl sulfanilylcarbamate" in the list of items in the table in section 180.3(e)(5)).

Subsequently, asulam has been determined not to be a cholinesterase inhibitor based on its structure and the results of animal tests.

§ 180.3 [Amended]

Therefore, § 180.3 *Tolerance for related pesticide chemicals* is corrected in paragraph (e)(5) by deleting the item "Asulam (methyl sulfanilyly- carbamate)" from the list of items.

Dated: March 21, 1978.

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

[FR Doc. 78-8009 Filed 3-24-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21116, 21117; FCC 78-107]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 97—AMATEUR RADIO SERVICE

Prohibiting the Marketing of External Radio Frequency Power Amplifiers Capable of Operation on any Frequency From 24 to 35 MHz and Requiring Type Acceptance of Equipment Marketed for Use in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document requires a grant of type acceptance from the Commission prior to the manufacturing or marketing of any external radio

frequency power amplifier in the Amateur Radio Service and requires that any external amplifier not be capable of operation in the frequency range of 24 to 35 MHz. This action was taken in response to the large number of amplifiers currently being produced for illegal operation in the Citizens Band Radio Service and by unlicensed operators. It should reduce the availability of this equipment to these operators and therefore will result in a substantial reduction of interference to other users of the radio spectrum.

EFFECTIVE DATE: April 28, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John A. Reed, Office of Chief Engineer, 202-632-7093.

SUPPLEMENTARY INFORMATION: Adopted: February 16, 1978. Released: March 20, 1978.

By the Commission: Commissioner White concurring in part and dissenting in part and issuing a statement.

In the matter of amendment of Parts 2 and 97 of the Commission's Rules to require type acceptance of equipment marketed for use in the Amateur Radio Service; and amendment of Part 2 of the Commission's Rules to prohibit the marketing of external radio frequency power amplifiers capable of operation on any frequency from 24 to 35 MHz.

1. Notices of Proposed Rulemaking in the above captioned matters were released on February 28, 1977. The deadline for the submission of comments was May 25, 1977, and for the submission of reply comments was June 6, 1977. In response to petitions received from the R. L. Drake Co., the Heath Co. and the American Radio Relay League, Inc., these dates were extended to June 24, 1977, for filing comments and to July 6, 1977, for filing reply comments. The report comment date was further extended to July 13, 1977, in response to a petition filed by the R. L. Drake Co. In response to a petition by the American Radio Relay League, Inc., oral arguments were held on December 1, 1977, to allow interested parties to present their ideas to the Commission en banc.

2. Docket 21117 proposed to require type acceptance pursuant to Part 2 of our rules for all amateur transmitters and external radio frequency power amplifiers. Various other changes were also proposed including increasing the level of spurious and harmonic suppression to 43+10 log (power in watts) decibels below the mean power output of the transmitter or amplifier for all emissions outside of the amateur band being used and exempting the individual amateur operator from the type acceptance requirements.

3. Docket 21116 proposed to prohibit the marketing of any external radio frequency power amplifier capable of operation on any frequency or frequencies between 24 and 35 MHz. An exception was proposed to this restriction for any licensed amateur operator with a general or higher class license who wished to construct not more than one unit of the same model for use at his licensed amateur radio station.

4. Docket 21117, there were 199 individuals and organizations who filed comments, 3 of whom filed reply comments, 6 of whom filed (and were accepted as) late comments, and 1 who filed and was accepted as a late reply comment. Docket 2116 received 282 comments from various individuals and organizations, 3 of which filed reply comments, 5 of which filed and were accepted for late comments, and 1 which filed and was accepted as a late reply comment. In addition, 11 parties participated in the oral arguments for both dockets with 4 parties filing supplementary comments. While specific references are not generally made to any individual comment, the public is assured that all comments and reply comments were carefully reviewed and considered before reaching our decision in this proceeding.

THE PROBLEM

5. During fiscal year 1976, FCC field installations received 80,816 complaints of electromagnetic interference. This interference was primarily to television reception. Of these complaints, 83 percent were associated with the operation of transmitters in the Citizens Band Radio Service. In an attempt to determine the major causes of such interference, a study was conducted by the Commission's Field Operations Bureau in which 72 sample cases were randomly selected and investigated. These sample cases were limited to interference to television reception involving CB transmitter and were selected over several months covering the entire United States in order to insure a random sample. From this study, it was determined that in at least 46 percent of the samples the interference was due to the illegal use of an external radio frequency power amplifier. The study also showed that in fiscal year 1976 a lower bound on the number experiencing interference to television reception associated with the operation of CB stations probably lies somewhere between 1 and 10 million persons with the best estimate being 4 million persons. Projections for fiscal year 1979 are that between 3 and 21 million persons (best estimate—9 million) will experience TVI associated with CB operation.

6. The number of interference complaints being received by the Commission is increasing at an alarming rate, primarily due to the Citizens Band Radio Service and the illegal operation of external amplifiers in that service. The Commission has attempted to deal with the problem of these amplifiers in the past, notably through rule making in Docket 20118 (40 FR 1243, 50 FCC 2d 310) which added a new Section 2.815 to the marketing rules in Part 2. This section prohibited the marketing of any external radio frequency power amplifier capable of being used with a transmitter operating on any frequency or frequencies between 24 and 35 MHz with certain exceptions. These exceptions allowed the continued marketing of these amplifiers operating in this frequency range provided the equipment also had amplification capability over the following frequency ranges: 7000 7300 kHz, 14,000 14,350 kHz, 21 21.45 MHz, and 28 29.70 MHz.

7. Unfortunately, the action in Docket 20118 was ineffective as it was concerned solely with the production of then available single band amplifiers for the CB service and it further was based on the assumptions that amateur equipment would not be used in the CB service. However, almost immediately after the issuance of the Report and Order in that docket, there appeared on the market a device commonly called a "broad-band linear." These devices were marketed ostensibly for use in the Amateur Radio Service and were constructed to meet the strict requirements of our rules, inasmuch as they claimed to provide for operation on the frequency bands specified under our exemption. However, these devices were intended solely for use in the Citizens Band Radio Service and for use by unlicensed operators, contrary to the intent of our rules. In addition, these devices had an even greater potential for interference due to the higher level of spurious emissions which were generated.

8. Docket 21116 was therefore issued in combination with Docket 21117 to close this "loop-hole" in our regulations that permits the manufacture of amplifiers capable of being used with CB equipment. In this regard, the Commission is removing the "loop-hole" in our regulations that allows the manufacture and marketing of amplifiers capable of operation in the frequency range of 24 to 35 MHz. This is being accomplished by amending our regulations, as discussed later in this order and shown in the attached appendix, to prohibit the manufacture, importation, or marketing of any amplifier capable of operation on any frequency or frequencies between 24 and 35 MHz.

9. There are a number of manufacturers and suppliers of external amplifiers that are not complying with the current emission limitations specified

in Section 97.73 (Docket 20777, released March 10, 1977, FCC 77-157) of the Commission's Rules, contributing to the interference problem. This section requires an out-of-band emission attenuation of 40 decibels below the mean power of the fundamental without exceeding 50 milliwatts for any 5 watt or higher powered amplifier or transmitter operating below 30 MHz. While this requirement has only recently become effective for amateur transmitters, it has been in effect since April 15, 1977, for all external amplifiers and is retroactive for these amplifiers, regardless of the date of purchase or manufacture. Many of these amplifiers have been tested by our Laboratory Division and, to date, only a few have complied with this requirement.

10. The Commission has decided not to require type acceptance of amateur transmitters at this time as the emission limitations of Section 97.73 have only recently gone into effect for these transmitters. It cannot be demonstrated that such a program would be necessary to reduce their interference potential. However, the external amplifier manufacturers have continued to supply their products for illegal operation in the CB service and for use by unlicensed operators, and; in addition, many have not begun to modify their equipment to meet the new emission standards. For these reasons, the Commission has decided to bring those amplifiers operating below 144 MHz (the 2 meter band) under our type acceptance program for a limited, 3 year period. This requirement will enable the Commission to determine prior to the initial marketing of the equipment whether it meets our technical standards and is intended for use in the Amateur Radio Service. The methods used in this determination will be discussed in detail later in this Order.

Comments Received

11. Many of the comments received in these dockets recommended that the Commission introduce a requirement that a valid amateur license be shown as a prerequisite for purchasing any amateur equipment. Such a proposal is currently before the Commission in a number of petitions for rulemaking such as RM-2839 filed by the San Antonio Repeator Organization.

12. No other viable alternatives were proposed in these dockets other than the showing of a license, previously mentioned. While the majority of comments were against both the banning of amplifiers capable of operation between 24 and 35 MHz and the type acceptance of amateur equipment, many stated that they would accept such a requirement if the Commission was sure that it would be effective and if no other viable alternative was available. We are of the opinion that requiring type acceptance for a limited time and banning any amplifiers capable of operation in the above frequency range satisfies both of these requirements. The 3-year time period for type acceptance will allow the Commission the time to investigate other methods of reducing the problems caused by the illegal operation of these amplifiers while still attacking the immediate problem. If at the end of this 3-year period it is determined that the type acceptance requirement is still necessary and that it has indeed reduced the problems caused by these amplifiers, this program can be continued by further Commission action.

Rule Amendments

13. Attached as an appendix are the revised rules which ban the use (under Part 97), manufacture, importation, and marketing of: (1) any external radio frequency power amplifier capable of operation below 144 MHz which has not been type accepted, and (2) any external radio frequency power amplifier capable of operation in the frequency range of 24 to 35 MHz. Many of these rule changes have been placed in Part 2 of the Commission's Regulations. In order to make clear to the public our intent in these revisions, each section is be discussed below.

Section 2.815. This section has been modified to remove the exemption that formerly allowed the marketing of external amplifiers capable of operation in the frequency range of 24 to 35 MHz if amplification capability was also provided in other specified frequency bands. As of the effective date of these regulations, the manufacture, importation, and marketing of any external amplifier capable of operation from 24 to 35 MHz will be prohibited. In addition, the manufacture, importation, or marketing of any amplifier capable of operation below 144 MHz will also be prohibited unless a grant of type acceptance has been issued for that equipment. However, this latter prohibition has been worded to allow the necessary manufacture of a limited number of amplifiers in order to make the tests needed for obtaining a grant of type acceptance. A limited number of amplifiers would be considered to be no more than 10, unless some justification can be submitted to the Commission to demonstrate why it would be necessary to manufacture a larger quantity. (Manufacturers and equipment dealers should also note Paragraph 15 of this Order which details how a waiver of this marketing requirement may be obtained for present inventory.)

While this section prohibits the manufacture of any external amplifier capable of operation below 144 MHz with the exception of those which have been type accepted, this Commission has no intention or preventing the continued manufacture or marketing of external radio frequency power amplifiers designed for Industrial, Scientific, or Medical (ISM) applications. In this regard, the Commission will entertain requests for a waiver of this section from those ISM manufacturers. However, the manufacturers of external amplifiers designed for operation in the Citizens Bank Radio Service or for other illegal applications should note that there are considerable differences between ISM equipment and amateur equipment. There is, therefore, very little chance of one of the manufacturers of these illegal amplifiers obtaining such a waiver. If such a waiver was granted through error, the waiver could be revoked and the manufacturer denied the right to manufacture or market any more of his equipment. This could possibly occur if any amplifier which was manufactured under such a waiver was discovered being used outside of its intended operation.

In addition to the above prohibitions, new Paragraphs (d) and (e) have been added. These paragraphs are designed to allow the licensed amateur radio operator to construct an amplifier (not from a kit which is also required to obtain a grant of type acceptance) which operates in the frequency range of 24 to 35 MHz or in any frequency range below 144 MHz and to market that amplifier to another licensed amateur operator for use at his own amateur station, without regard to the type acceptance requirements or the 24 to 35 MHz frequency ban requirements. However, any construction or modification of this equipment is only allowed if the amateur operator does the construction or modification, and that amateur operator has a license of the appropriate type which allows him to use such equipment. In addition, the requirements contained in Sections 97.75 and 97.76 of the amateur regulation must be met, and no more than one unit of a particular model amplifier can be constructed or modified in any 1 calendar year without obtaining a grant of type acceptance.

Section 2.983. This section has been amended to exempt the amateur amplifier from most of the required measurements for type acceptance. The only measurements which will be required are for spurious emissions radiated at the antenna terminal and the field strength of the spurious radiations which are emitted from the cabinet. These measurements are incorporated by reference in Section 2.1005 and are contained in Sections 2.991 and 2.993 of the Commission's Regulations.

Section 2.1001. This section has been revised to allow individual licensed

amateur radio operators the ability to modify their own equipment without regard to type acceptance provisions. While the modified amplifier will still be required to meet the emission limitations of Section 97.73 and any other technical requirements for the amateur service, the amplifier may be modified in whatever manner the amateur operator desires provided the equipment will only be used at a licensed amateur radio station and further provided that the amateur operator who performs the modification possesses a license of the appropriate type that allows him to use the equipment being modified. Modifications specified by equipment manufacturers or suppliers will not be allowed unless the manufacturer or supplier has obtained the necessary permission from the Commission as detailed in Paragraph (b) or has obtained a new grant of type acceptance incorporating such modifications. In addition, no modification of these amplifiers will be allowed without a new grant of type acceptance or written permission from the Commission, as detailed in Paragraph (b) of this section, if the equipment is not used solely at a specific licensed amateur radio station. Any modifications made in this manner are the responsibility of the station licensee who shall also remain responsible for insuring that this modified equipment will still comply with all of the applicable technical standards in Part 97.

Section 2.1005. A new section has been added to cover the type acceptance requirements of amateur equipment. There are a number of points made in this section which require that each paragraph be discussed:

(a) This paragraph references the appropriate sections under our type acceptance regulations. These sections cover all information pertaining to the grant such as identification of the equipment; reasons for dismissal of the application; changes in the equipment, its identification, or the name of the grantee; FCC inspection; and various other aspects. In addition, the specific test sections are referenced. To obtain a grant of type acceptance for an external amplifier, in addition to the data required by Section 2.983, test results must be submitted in accordance with Section 2.991, the measurement of the spurious emissions at the antenna terminal, and with Section 2.993, the measurement of the field strength of spurious radiations emitted from the cabinet, power leads, and other elements of the amplifier under test.

(b) This paragraph simply states the test parameters for making the spurious emission tests. While many of the received comments stated that to require such tests of amateur equipment would be cost prohibitive, increasing the cost of equipment to the consumer, the Commission is not of this opinion. No piece of radio equipment from any service should be marketed before a number of samples are tested to determine that the equipment is in compliance with our regulations. As these tests should be performed regardless of the requirement for type acceptance, the only additional expense that type acceptance would cost the manufacturer or supplier is the few hours of paperwork to compile the application and the time delay in marketing during which the Commission processes this application.

(c) This paragraph describes the type acceptance procedure for kits, including an example of the required identification label. This material is fairly straightforward and should not require further explanation. However, it should be noted that Section 97.3 (aa) defines an external radio frequency power amplifier kit as any number of electronic parts usually provided with a schematic or printed circuit board which when assembled in accordance with instructions results in an external amplifier, even if additional parts of any type are required to complete the assembly.

(d) This paragraph simply restates the Commission's ability, as defined in Section 2.915(a)(2) of our regulations, to deny a grant of type acceptance, even though the equipment complies with the applicable technical standards, if it is found that to not issue such a grant would serve the public interest, convenience and necessity by preventing the use of these amplifiers in any radio service other than the Amateur Radio Service. The Commission could therefore deny a grant of type acceptance for any amplifier it felt was designed for use by a CB or unlicensed operator. The points which would be considered in making this determination are listed in Section 97.77.

14. In addition to the rule changes in Part 2, a number of changes are also made to Part 97 of the Commission's Regulations. These changes detail how the requirements for type acceptance will affect the individual amateur operator and also specify the technical requirements for type acceptance. As with the discussion of the changes in Part 2, each section will be covered separately.

Section 97.3. This section has been amended to add a definition of an external radio frequency power amplifier and an external radio frequency power amplifier kit.

Section 97.75. This section requires, as of the effective date and for 3 years following that date, that every external radio frequency power amplifier capable of operation below 144 MHz which is used at an amateur radio station be of a type which has received a grant of type acceptance for use under Part 97. However, a number of exemptions to this type acceptance requirement are detailed, all requiring that the equipment be used only at a licensed amateur radio station. Of particular interest should be Subparagraph (a)(2) which states that any external amplifier originally purchased before the effective date may continue to be used without regard to the type acceptance requirement. This would also apply to any amplifier purchased after the effective date from another licensed amateur radio operator or from a dealer who purchased the amplifier used from another licensed amateur radio operator, as long as the amplifier was originally purchased before the effective date. The sale of this equipment is permitted under Section 97.76. However, as previously mentioned, this applies only to those amplifiers in use at an amateur radio station which, by definition, is currently licensed. Any amplifier in use in another radio service is not grandfathered under this clause.

Also of interest in this section should be Subparagraph (a)(6) which states that any amplifier originally purchased after the effective date of these regulations may also be used without regard to the type acceptance requirement if the amplifier was marketed under the marketing waiver explained in Paragraph 16 of this order. As before, this would also apply to any amplifier marketed under this waiver which was purchased after the effective from another licensed amateur radio operator or from a dealer who purchased the amplifier used from another licensed amateur operator. However, this amplifier must still be for use only at a licensed amateur radio station.

While the rest of this Section is fairly self-explanatory, it should be noted that any amplifier purchased from another licensed amateur operator or from a dealer is also exempted from the type acceptance requirement if the amplifier was: (1) modified by another licensed amateur operator who possessed a license of the appropriate type which allowed him to use the equipment being modified, (2) constructed (not from an amplifier kit) by another licensed amateur operator, or (3) constructed by a licensed amateur operator from a kit purchased before the effective date of these regulations. However, all of these exemptions require that the amplifier be used only at a licensed amateur radio station.

It should also be noted that this section limits the construction (not from a kit) or modification of these amplifiers to only one unit of a particular model amplifier per calendar year. Any amplifiers constructed or modified in excess of this limit must be type accepted.

Finally, Paragraph (b) of this section references the Commission's

"Radio Equipment List, Equipment Acceptable for Licensing." Any amplifier on this list as being approved for use under Part 97 may be used in the Amateur Radio Service.

Section 97.76. This section requires, as of the effective date and for 3 years following that date, that every external radio frequency power amplifier capable of operation below 144 MHz which is marketed, manufactured, imported or modified for use in the Amateur Radio Service be of a type which has received a grant of type acceptance for use under Part 97. The term "modified for use" does not mean that an amateur operator cannot modify an amplifier that has not been type accepted for use under Part 97. Rather, it means that any amplifier which is modified to be used in the Amateur Radio Service which is then manufactured, marketed or imported for use in that service must also have obtained a grant of type acceptance.

Specific exemptions are listed in this section for the individual amateur operator. As long as the construction (not from a kit) or modification is performed by a licensed amateur operator, this equipment may be sold to another licensed amateur operator for use at his amateur radio station. Any modifications must be performed by an amateur licensee whose license affords him the privileges of using the equipment being modified. This equipment may also be sold to a dealer who, in turn, is required to sell the amplifier to another licensed amateur radio operator for use at his amateur station. While this may sound like requiring the presentation of an amateur license for sale of this amplifier, this is not the case. Sections 2.803 and 2.815 prohibit the marketing of those amplifiers that do not possess a grant of type acceptance. However, the individual amateur operator has essentially been exempted from this requirement, as detailed in this section and Section 97.75. Therefore, as long as the sale is to an amateur radio operator for use at his amateur, there is no violation of our marketing rules. Any sale of this equipment to any other person would be in violation of Sections 2.803 and 2.815 in addition to any other applicable sections of the FCC Regulations. In this regard, it will be the responsibility of the person making the sale, either the dealer or the amateur operator, to determine that the purchaser is qualified to use the amplifier.

As with Section 97.75, particular interest should be given to Subparagraphs (a)(2) and (a)(6). These subparagraphs are explained in the discussion of Section 97.75 and would allow the continued marketing of any amplifier originally purchased before the effective date or purchased after the effective date, subject to the conditions stated in that discussion and these regulations. It should be noted that the construction (not from a kit) or modification of these amplifiers is limited to only one unit of a particular model amplifier per calendar year. Any amplifiers constructed or modified in excess of this limit must be type accepted in order to be marketed.

This section, in combination with Section 97.75 will still allow the amateur operator to construct his own equipment; to modify his equipment, equipment from any other radio service or the equipment of another amateur operator; to service the equipment of another licensed amateur operator; and to construct one unit of a particular model amplifier per calendar year without obtaining a grant of type aceptance provided, in all cases, that the amplifier meets the applicable technical requirements after any of the above changes and the amplifier is for use only at a licensed amateur radio station.

Section 97.77. This section provides the technical standards which an external amplifier must meet before a grant of type acceptance will be issued. The emission limitations specified are those presently in Section 97.73. The decrease from the amount of attenuation originally proposed was done in an attempt to prevent legitimate amateur manufacturers from having to perform a major redesign of their equipment. Rather, the Commission is of the opinion that the licensed amateur operator is quite capable of solving any interference problems which may occur and should, therefore, not have to bear the economic burden that would result if a tighter standard was imposed. In addition, the need for further attenuation has not been demonstrated. While the requirement to attenuate spurious emissions at least 40 decibels below the mean power of the fundamental for operation below 30 MHz will prevent the manufacture of the majority of the "broad-band linears," any amplifier submitted for type acceptance would also have to meet this specification when connected to a transmitter meeting this requirement even if the amplifier is turned off. Testing at our Laboratory Division has shown that some of the so-called "linears" are not capable of this.

Also included in this section are the specifications to demonstrate that the amplifier is not capable of operation on any frequency in the range of 24 to 35 MHz, required by Section 2.815. In order to comply with this requirement, the amplifier shall not be capable of amplifying any input signal in the frequency range of 26 to 28 MHz. In addition, no more than 6 decibels of amplification (mean radio frequency input power versus mean output power of the amplifier) will be allowed in the frequency ranges of 24 to 26 MHz and 28 to 35 MHz.

A list is also given in this section for a number of design features which would normally preclude an amplifier from obtaining a grant of type acceptance. These features are, currently, the major design differences between legitimate amateur equipment and the illegal amplifiers. Amateur transmitters designed for operation below 144 MHz (the 2 meter band) are provided with an external relay contact for use with the external amplifier. This relay contact is used to place the amplifier in the transmit mode; however, such a contact is prohibited on CB transmitters. The manufacturers of illegal amplifiers must therefore provide sensing internal to the amplifier which detects the input radio frequency signal and places the amplifier in the transmit mode. Such internal sensing on any amplifier designed for operation below 144 MHz would disqualify that equipment from receiving a grant of type acceptance, as the sensing would serve no purpose but to increase the initial level of spurious emissions from transients when the amplifier is first keyed.

In addition to the including of internal RF sensing, amplifiers designed for use with a CB transmitter must provide more gain in order to amplify a 4-watt input signal as opposed to the 100-watt signal usually produced by an amateur transmitter. The Commission will then look for the provision of more gain, not power supply limited gain, designed into the amplifier than necessary to operate in the amateur service. While an input signal below which the amplifier would not operate could have been specified, it was felt that such a requirement would be too easy to defeat to have much effect. The requirement that the amplifier be designed to a certain gain limitation would generally require a total redesign of the amplifier for modification. In this regard, the Commission would not accept an amplifier with an attenuation in the input stage, especially a variable attenuation, as this could be used to defeat the purpose of this section. We realize that there are a small number of legitimate manufacturers or QRP (low power) equipment which needs to boost a low level signal of about 4 or 5 watts. The Commission is aware of these manufacturers and, realizing that they produce amplifiers for this operation in very small quantities, would entertain a request for a waiver of this requirement with certain restrictions dependent on the request.

15. As these rule amendments will become effective 30 days after their date of publication in the FEDERAL REGISTER, a number of marketing problems are expected to develop concerning that equipment still in the manufacturer's or dealer's inventory. As this Commission has no intention

of halting the marketing of those amplifiers manufactured prior to the effective date which appear to be designed solely for operation in the Amateur Radio Service, we are prepared to issue a waiver for up to 1 year for this marketing restriction, as specified in Sections 2.815(b), 2.815(c), and 97.76, for specific models of amplifiers. No waiver of these requirements will be issued to any individual or dealer. Rather, the manufacture or importer of this equipment will be required to submit to the Commission's Laboratory Division a sample of each model amplifier and all of the information required for obtaining a grant of type acceptance, as shown in Sections 2.983 and 97.77. The information required in Section 97.77(c) need not be submitted for this waiver request as Section 2.815(b) will not apply for this equipment. In addition to this material, we are also requiring the submission by the manufacturer or importer of the number of units of each model still in inventory, or projected to be in inventory, as of the effective date of these regulations. After the Commission has reviewed all of this material and inspected the amplifier, a waiver of the marketing requirements, as specified above, will be issued for any amplifier which complies with all of the type acceptance requirements, exclusive of Section 97.77(c), and appears to be designed solely for operation in the Amateur Radio Service. However, we wish to emphasize that this waiver will apply strictly to the marketing of those amplifiers or amplifier kits manufactured prior to the effective date of these regulations and will not exempt any equipment from the manufacturing requirements contained in Sections 2.815(b), 2.815(c), and 97.77.

CONCLUSIONS

16. In view of the foregoing, we are of the opinion that the amended rules as described above and in the attached appendix are in the public interest, convenience, and necessity. Authority for these amendments is contained in Sections 4(i), 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended. Accordingly, it is ordered, effective April 28, 1978, that Parts 2 and 97 of the Commission's Rules and Regulations are amended as set out in the attached appendix. It is further ordered that this proceeding is continued.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, Sec. 302, 82 Stat., 290; 47 U.S.C. 154, 302, 303.)

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

APPENDIX

A. Part 2 is amended as follows:

*See attached Statement of Commissioner White.

1. Section 2.815 is amended by deleting Paragraphs (b), (c), and (d) and by adding new Paragraphs (b), (c), (d), and (e) to read as follows:

§ 2.815 External radio frequency power amplifiers.

* * * * *

(b) After April 27, 1978, no person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies between 24 and 35 MHz.

NOTE.—For purposes of this part, the amplifier will be deemed incapable of operation between 24 and 35 MHz if—

(1) The amplifier has no more than 6 decibels of gain between 24 and 26 MHz and between 28 and 35 MHz. (This gain is determined by the ratio of the input RF driving signal (mean power measurement) to the mean RF output power of the amplifier.); and

(2) The amplifier exhibits no amplification (0 decibels of gain) between 26 and 28 MHz.

(c) After April 27, 1978, and until April 28, 1981, no person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier or amplifier kit capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of type acceptance in accordance with Subpart J of this part and Subpart C of Part 97 or other relevant Parts of this Chapter. No more than 10 external radio frequency power amplifiers or amplifier kits may be constructed for evaluation purposes in preparation for the submission of an application for a grant of type acceptance.

(d) The proscription in Paragraph (b) of this section shall not apply to the marketing, as defined in that paragraph, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier fabricated in not more than one unit of the same model in a calendar year by that operator provided the amplifier is for the amateur operator's personal use at his licensed amateur radio station and the requirements of Sections 97.75 and 97.76 of this chapter are met.

(e) The proscription in Paragraph (c) of this section shall not apply in the marketing, as defined in that paragraph, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier if the amplifier is for the amateur operator's personal use at his licensed amateur radio station and the requirements of Sections 97.75 and 97.76 of this chapter are met.

2. Section 2.983 is amended by adding a new Paragraph (i) to read as follows:

§ 2.983 Application for type acceptance.

* * * * *

(i) The application for type acceptance of an external radio frequency power amplifier under Part 97 of this chapter need not be accompanied by the data required by Paragraph (e) of this section. In lieu thereof, measurements shall be submitted to show compliance with the technical specifications in Subpart C of Part 97 of this chapter and such information as required by Section 2.1005 of this part.

3. Section 2.1001 is amended by revising the text of Paragraph (e) and adding a new Paragraph (f) to read as follows:

§ 2.1001 Changes in type accepted equipment.

* * * * *

(e) Users shall not modify their own equipment except as provided by Paragraphs (b) and (f) of this section.

(f) Equipment type accepted for use in the Amateur Radio Service pursuant to the requirements of Part 97 of this chapter may be modified without regard to the conditions specified in Paragraph (b) of this section, provided the following conditions are met:

(1) Any person performing such modifications on equipment used under Part 97 of this chapter must possess a valid amateur radio operator license of the class required for the use of the equipment being modified.

(2) Modifications must pursuant to this paragraph be limited to equipment used at licensed amateur radio stations.

(3) Modifications specified or performed by equipment manufacturers or suppliers must be in accordance with the requirements set forth in Paragraph (b) of this section.

(4) Modifications specified or performed by licensees in the Amateur Radio Service on equipment other than that at specific licensed amateur radio stations must be in accordance with the requirements set forth in Paragraph (b) of this section.

(5) The station licensee shall be responsible for insuring that modified equipment used at his station will comply with the applicable technical standards in Part 97 of this chapter.

4. A new § 2.1005 is added to read as follows:

§ 2.1005 Equipment for use in the Amateur Radio Service.

(a) The general provisions of Sections 2.981, 2.983, 2.991, 2.993, 2.997, 2.999, 2.1001, and 2.1003 shall apply to application for and grants of type acceptance for equipment operated under the requirements of Part 97 of this chapter, the Amateur Radio Service.

(b) When performing the tests specified in Sections 2.991 and 2.993 of this part, the center of the transmitted bandwidth shall be within the operating frequency band by an amount equal to 50 percent of the bandwidth utilized for the tests. In addition, said tests shall be made on at least one frequency in each of the bands within which the equipment is capable of tuning.

(c) Any supplier of an external radio frequency power amplifier kit as defined by Subsection 97.3(aa) of this chapter shall comply with the following requirements:

(1) Assembly of one unit of a specific type shall be made in exact accordance with the instructions being supplied with the product being marketed. If all of the necessary components are not normally furnished with the kit, assembly shall be made using the recommended components.

(2) The measurement data required for type acceptance shall be obtained for this unit and submitted with the type acceptance application. Unless otherwise requested, it is not necessary to submit this unit with the application.

(3) A copy of the exact instructions which will be provided for assembly of the equipment shall be provided in addition to other material required by Section 2.983 of this part.

(4) The identification label required by sections 2.925 and 2.1003 of this part shall be permanently affixed to the assembled unit and shall be of sufficient size so as to be easily read. The following information shall be shown on the label:

(Name of Grantee of Type Acceptance)

FCC ID: (The number assigned to the equipment by the Grantor)

This amplifier can be expected to comply with part 97 of the FCC Regulations when assembled and aligned in strict accordance with the instruction manual using components supplied with the kit or an exact equivalent thereof.

(Title and signature of responsible representative of Grantee)

STATEMENT OF COMPLIANCE

I state that I have constructed this equipment in accordance with the instruction manual and using the parts furnished by the supplier of this kit.

(Signature) (Date)

(Amateur call sign) (Class of license)

(Expiration date of license)

(To be signed by the person responsible for proper assembly of kit.)

(5) If requested, an unassembled unit shall be provided for assembly and test by the Commission. Shipping charges to and from the Commission's Laboratory shall be borne by the applicant for type acceptance.

(d) Type acceptance of external radio frequency power amplifiers and amplifier kits may be denied when denial serves the public interest, convenience, and necessity by preventing the use of these amplifiers in services other than the Amateur Radio Service. Other uses of these amplifiers, such as in the Citizens Band Radio Service, is prohibited (section 95.509 of this Chapter). Examples of features which may result in the denial of type acceptance are contained in section 97.77 of this Chapter.

B. Part 97 is amended as follows:

1. In § 97.3, new definitions of external radio frequency power amplifier and external radio frequency power amplifier kit are added as new paragraphs (z) and (aa), as follows:

§ 97.3 Definitions.

* * * * *

(z) *External radio frequency power amplifier.* Any device which, (1) when used in conjunction with a radio transmitter as a signal source, is capable of amplification of that signal, and (2) is not an integral part of the transmitter as manufactured.

(aa) *External radio frequency power amplifier kit.* Any number of electronic parts, usually provided with a schematic diagram or printed circuit board, which, when assembled in accordance with instructions, results in an external radio frequency power amplifier, even if additional parts of any type are required to complete assembly.

§ 97.75 [Redesignated]

2. § 97.75 is redesignated § 97.74.

3. A new § 97.75 is added, as follows:

§ 97.75 Use of external radio frequency (RF) power amplifiers.

(a) Until April 28, 1981, any external radio frequency (RF) power amplifier used or attached at any amateur radio station shall be type accepted in accordance with subpart J of part 2 of the FCC's Rules for operation in the Amateur Radio Service, unless one or more of the following conditions are met:

(1) The amplifier is not capable of operation on any frequency or frequencies below 144 MHz;

(2) The amplifier was originally purchased before April 28, 1978;

(3) The amplifier was—

(i) Constructed by the licensee, not from an external RF power amplifier kit, for use at his amateur radio station;

(ii) Purchased by the license as an external RF power amplifier kit before April 28, 1978, for use at his amateur radio station; or

(iii) Modified by the licensee for use at his amateur radio station in accordance with § 2.1001 of the FCC's Rules;

(4) The amplifier was purchased by the licensee from another amateur radio operator who—

(i) Constructed the amplifier, but not from an external RF power amplifier kit;

(ii) Purchased the amplifier as an external RF power amplifier kit before April 28, 1978, for use at his amateur radio station; or

(iii) Modified the amplifier for use at his amateur radio station in accordance with § 2.1001 of the FCC's Rules;

(5) The external Power amplifier was purchased from a dealer who obtained it from an amateur radio operator who—

(i) Constructed the amplifier, but not from an external RF power amplifier kit;

(ii) Purchased the amplifier as an external RF power amplifier kit before April 28, 1978, for use at his amateur radio station; or

(iii) Modified the amplifier for use at his amateur radio station in accordance with § 2.1001 of the FCC's Rules; or

(6) The amplifier was originally purchased after April 27, 1978, and has been issued a marketing waiver by the FCC.

(b) A list of type accepted equipment may be inspected at FCC headquarters in Washington, D.C., or at any FCC field office. Any external RF power amplifier appearing on this list as type accepted for use in the Amateur Radio Service may be used in the Amateur Radio Service.

NOTE.—No more than one unit of one model of an external RF power amplifier shall be constructed or modified during any calendar year by an amateur radio operator for use in the Amateur Radio Service without a grant of type acceptance.

4. A new § 97.76 is added, as follows:

§ 97.76 Requirements for type acceptance of external radio frequency (RF) power amplifiers and external radio frequency power amplifier kits.

(a) Until April 28, 1981, any external radio frequency (RF) power amplifier or external RF power amplifier kit

marketed (as defined in § 2.815), manufactured, imported, or modified for use in the Amateur Radio Service shall be type accepted for use in the Amateur Radio Service in accordance with subpart J of part 2 of the FCC's Rules. This requirement does not apply if one or more of the following conditions are met:

(1) The amplifier is not capable of operation on any frequency or frequencies below 144 MHz;

(2) The amplifier was originally purchased before April 28, 1978, by an amateur radio operator for use at his amateur radio station;

(3) The amplifier was constructed or modified by an amateur radio operator for use at his amateur radio station in accordance with § 2.1001 of the FCC's Rules;

(4) The amplifier was constructed or modified by an amateur radio operator in accordance with § 2.1001 of the FCC's Rules and sold to another amateur radio operator or to a dealer;

(5) The amplifier was constructed or modified by an amateur radio operator in accordance with § 2.1001 of the FCC's Rules and sold by a dealer to an amateur radio operator for use at his amateur radio station; or

(6) The amplifier was manufactured before and has been issued a marketing waiver by the FCC.

(b) No more than one unit of one model of an external RF power amplifier shall be constructed or modified during any calendar year by an amateur radio operator for use in the Amateur Radio Service without a grant of type acceptance.

(c) A list of type accepted equipment may be inspected at FCC headquarters in Washington, D.C., or at any FCC field office. Any external RF power amplifier appearing on this list as type accepted for use in the Amateur Radio Service may be marketed for use in the Amateur Radio Service.

§ 97.77 [Redesignated]

5. § 97.77 in subpart D is redesignated § 97.78.

6. A new § 97.77 is added at the end of subpart C, as follows:

§ 97.77 Standards for type acceptance of external radio frequency (RF) power amplifiers and external radio frequency power amplifier kits.

(a) An external radio frequency (RF) power amplifier or external RF power amplifier kit will receive a grant of type acceptance under this part only if a grant of type acceptance would serve the public interest, convenience, or necessity.

(b) To receive a grant of type acceptance under this part, an external RF power amplifier shall meet the emission limitations of § 97.73 when the amplifier is—

(1) Operated at its full output power;

(2) Placed in the "standby" or "off" positions, but still connected to the transmitter; and

(3) Driven with at least 50 watts mean radio frequency input power (unless a higher drive level is specified).

(c) To receive a grant of type acceptance under this part, an external RF power amplifier shall not be capable of operation on any frequency or frequencies between 24.00 MHz and 35.00 MHz. The amplifier will be deemed incapable of operation between 24.00 MHz and 35.00 MHz if—

(1) The amplifier has no more than 6 decibels of gain between 24.00 MHz and 26.00 MHz and between 28.00 MHz and 35.00 MHz. (This gain is determined by the ratio of the input RF driving signal (mean power measurement) to the mean RF output power of the amplifier); and

(2) The amplifier exhibits no amplification (0 decibels of gain) between 26.00 MHz and 28.00 MHz.

(d) Type acceptance of external radio frequency power amplifiers or amplifier kits may be denied when denial serves the public interest, convenience, or necessity by preventing the use of these amplifiers in services other than the Amateur Radio Service. Other uses of these amplifiers, such as in the Citizens Band Radio Service, is prohibited (section 95.509). Examples of features which may result in dismissal or denial of an application for type acceptance of an external RF power amplifier include, but are not limited to, the following:

(1) Any accessible wiring which, when altered, would permit operation of the amplifier in a manner contrary to the FCC's Rules;

(2) Circuit boards or similar circuitry to facilitate the addition of components to change the amplifier's operating characteristics in a manner contrary to the FCC's Rules.

(3) Instructions for operation or modification of the amplifier in a manner contrary to the FCC's Rules;

(4) Any internal or external controls or adjustments to facilitate operation of the amplifier in a manner contrary to the FCC's Rules.

(5) Any internal radio frequency sensing circuitry or any external switch, the purpose of which is to place the amplifier in the transmit mode;

(6) The incorporation of more gain in the amplifier than is necessary to operate in the Amateur Radio Service. For purposes of this paragraph, an amplifer must meet the following requirements:

(i) No amplifier shall be capable of achieving designed output (or designed d.c. input) power when driven with less than 50 watts mean radio frequency input power;

(ii) No amplifier shall be capable of amplifying the input RF driving signal by more than 13 decibels. (This gain limitation is determined by the ratio of the input RF driving signal (mean power) to the mean RF output power of the amplifier.) If the amplifier has a designed d.c. input power of less than 1,000 watts, the gain allowance is reduced accordingly. For example, an amplifier with a designed d.c. input power of 500 watts shall not be capable of amplifying the input RF driving signal (mean power measurement) by more than 10 decibels, compared to the mean RF output power of the amplifier);

(iii) The amplifier shall not exhibit more gain than permitted by paragraph (d)(6)(ii) of this section when driven by a radio frequency input signal of less than 50 watts mean power; and

(iv) The amplifer shall be capable of sustained operation at its designed power level.

(7) Any attenuation in the input of the amplifer which, when removed or modified, would permit the amplifier to function at its designed output power when driven by a radio frequency input signal of less than 50 watts mean power.

STATEMENT OF COMMISSIONER WHITE CONCURRING IN PART AND DISSENTING IN PART

IN RE: THE COMMISSION'S DECISION TO PROHIBIT THE SALE OF POWER AMPLIFIERS CAPABLE OF OPERATION ON ANY FREQUENCY FROM 24 TO 35 MHZ

The Commission in its Report and Order has adopted rules which require both type acceptance of amplifiers capable of operation below 144 MHz and a ban of linear power amplifiers capable of operation on any frequency between 24 and 35 MHz. The type acceptance proposal is all that is necessary, at this time, to effectuate the Commission's prohibitions regarding the manufacture, marketing, importation, and use of linear amplifiers which are capable of being used illegally with CB sets. The majority, by imposing a ban in addition to type acceptance, which itself is in effect a ban on the sale of illegal power amplifiers, has instituted additional regulations where none are necessary, i.e., the Commission is guilty of regulatory overkill. Therefore, as a strong proponent of deregulation, I must dissent to that part of the Commission's decision which imposes a ban on the sale of linear power amplifiers.

The Commission by imposing a ban is trying to help solve the problem of TV interference. I too wish to see this problem solved, but there is no evidence that the imposition of a ban will solve the TV interference problem. A study by the Field Operations Bureau showed that linear amplifiers were associated with approximately 45 percent of all CB-TV interference cases.[1] But the use of linear amplifiers with CB sets is already illegal. There is ample evidence that those who are intent upon breaking the law

[1] "The Extent and Nature of Television Reception Difficulties Associated with CB Radio Transmissions," FCC/FOB/PD&E 77-02, July 1977.

will continue to do so and that those who wish to circumvent the ban will find ways to do so. The type acceptance proposal, in effect, would ban the manufacture of linear amplifiers capable of being coupled to the low-level output power of a CB set. The proposed type acceptance program would not prohibit the manufacture of linear amplifiers capable of being coupled to amateur or other legitimate types of equipment with much higher output power levels. The proposed ban adds another layer of regulation with no evidence that the proposed type acceptance program alone would not be as effective.

The Commission by its proposed ban would remove equipment from the market which is available to amateurs and others who are not the cause of the problem. In fact, amateurs have assisted the Commission in its enforcement problems both in policing their own ranks and in uncovering the illegal use of CB since that the latter can be disruptive of their own service. The ban also will remove linear amplifiers in the 24 to 35 MHz frequency range from the product lines of the legitimate manufacturers and perhaps cause economic harm to small manufacturers and retailers. The Commission has intruded into the marketplace with an unnecessary ban for a purpose admitted by the staff to be largely cosmetic in nature. But the Commission, when asked about TV-interference, proudly can say: "See what we have done."

[FR Doc. 78-7924 Filed 3-24-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the Socorro Isopod as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Socorro isopod (*Exophaeroma thermophilus*), which occurs only near Socorro, Socorro County, N.M., to be an endangered species. A review of the status of this isopod reveals: (1) That less than 2,500 individuals exist; (2) that its entire natural habitat has been so modified that, in its current condition, it is not usable by the species; and (3) that the species continues to survive precariously in an artificial habitat that it has adopted. This rule provides needed protection for the Socorro isopod in its present artificial habitat and will possibly lead to a reestablishment of the species elsewhere in the wild.

DATE: This rule becomes effective April 26, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1977, the Service published a proposed rulemaking in the Federal Register (42 FR 65213-65214) advising that sufficient evidence was on file to support a determination that the Socorro isopod was an endangered species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq. That proposal summarized the factors affecting the species as follows:

Summary of the Factors Affecting the Species

The Socorro isopod occupies the outflow of a thermal aquatic habitat called Sedillo Spring which is located near the base of the Soccoro Mountains southwest of Socorro, N.M. The species is of particular interest and importance in that it is one of only two fully freshwater isopods in the family *Sphaeromidae*. The problem of how this species arrived at its present state of evolutionary adaptation is of concern to isopod specialists and concept of land-locked fauna is of concern to biologists as a whole.

The Socorro isopod is endangered today because of destruction and modification of its habitat. The Socorro thermal area extends at least two miles along the front of the Socorro Mountains and at least half a mile westward of it. Within this thermal area, water issues from three springs (Socorro, Sedillo and Cook). Sedillo Spring appears to have followed a separate drainageway for a short distance before being dissipated into underlying permeable fan gravels. During late Pleistocene and early Holocene time, waters from Socorro and Cook Springs fed into a cienega that extended about one-half mile eastward from Cook Spring. In recent years these springs have been greatly altered by municipal and private water development projects. All of the flow is presently intercepted at the surface and is capped off, the water being piped primarily to the city of Socorro. This capping off of the springs has resulted in the loss of the entire original habitat of the Socorro isopod.

Today, the Socorro isopod survives only within the confines of the partially open conduit system of an abandoned bathhouse referred to as "Evergreen". This artificial habitat is supplied with water from Sedillo Spring and, because that spring is only a few hundred feet away, the water emerges with much of the original water quality and thermal characteristics retained. Because of the direct link between Sedillo Spring and the "Evergreen" bathhouse, the present population of isopods is thought to have originated from Sedillo Spring. Apparently, when the spring was capped and their natural habitat destroyed, some of the isopods made their way into the conduits and were able to survive in that environment. It is not known whether these isopods ever occurred in Cook or Socorro Springs. The conduits in which the species now occurs consist of less than 90 feet of iron pipe, and are entirely on privately owned land.

At present, the population of the Socorro isopod in the conduits is estimated to number only 2,449 animals. Current threats to these animals, in addition to their dependence on a highly restricted and fragile ecosystem, include reduced water flow in time of drought (such a condition existed this summer), and periodic cleaning and dredging of the conduit system.

Summary of Comments

In the proposed rulemaking to list the Socorro isopod as endangered, the public was given 60 days in which to comment. A press release was prepared by the Service, and several newspaper articles were published on the proposed action. The Governor of the State of New Mexico was contacted at that time and requested to waive the 90 day Governor's comment period authorized by the Act so that the isopod could be listed at the close of the 60 day public comment period. On January 25, 1978, the Governor of New Mexico (through the New Mexico Department of Game and Fish) notified the Service that he favored the listing and would waive his 90 day comment period. No other comments concerning the proposed rulemaking were received by the Service.

Conclusion

Since the Governor of New Mexico concurs with the listing of this species as endangered, and the general public and scientific community have presented no evidence to refute the data contained in the proposed rulemaking, the Service is now proceeding with the final determination that the Socorro isopod is an endangered species pursuant to the Endangered Species Act of 1973.

Effect of the Rulemaking

This rulemaking will give the Socorro isopod all of the protection from "take" provided by Section 9 of the Act as implemented by 50 CFR 17.21. In addition, the listing of this species will allow for such benefits of the Act as cooperative research, Federal aid

and land acquisition which could assist in the establishment of the species in a natural ecosystem elsewhere.

Under Section 7 of the Act, and the regulations implementing that Section, 50 CFR Part 402, all Federal agencies will now be required to assure that their actions do not jeopardize the continued existence of this species. They will also be required to utilize their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of the Socorro isopod. The procedural regulations implementing Section 7 of the Act were published on January 4, 1978 in 50 CFR Part 402 (43 FR 870).

NATIONAL ENVIRONMENTAL POLICY ACT

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

The primary author of this rule is John L. Paradiso, Office of Endangered Species 202-343-7814.

Accordingly, § 17.11 of Part 17 of Chapter I of Title 50 of the Code of Federal Regulations is amended by adding the Socorro isopod to the list, under "Crustaceans" (previously reserved), as follows:

§ 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion endangered	Status	When listed	Special rules
Crustaceans: Isopod, Socorro.	*Exosphaeroma thermophilus.*	NA.....	U.S.A. (New Mexico).	Entire...	E.....	36	NA

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

Dated: March 17, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-7849 Filed 3-24-78; 8:45 am]

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Emergency Order No. 7; Notice No. 1]

REMOVAL OF HIGH CARBON CAST STEEL WHEELS FROM SERVICE; INTERIM RESTRICTIONS ON THEIR USE

Emergency Order

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Emergency order.

SUMMARY: The FRA is issuing an emergency order under section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432). This emergency order restricts the use of freight cars with high carbon cast steel wheels, prescribes a mandatory program for locating those wheels and removing them from cars, and requires that all these wheels be found and removed from service before January 1, 1979.

On March 9, 1978, the National Transportation Safety Board (NTSB) informed the FRA that its investigation of several recent derailments had disclosed that the probable causes or contributing causes of the accidents were the breaking of these wheels due to overheating. The NTSB also told the FRA that "until these wheels are replaced or adequate precautions are instituted for the operation of cars equipped with these wheels, there is an imminent danger of derailment with the possible release of hazardous materials". The NTSB concluded by recommending that FRA use its emergency powers to alleviate this danger.

On March 14, 1978, the FRA initiated a special safety inquiry to obtain sufficient information concerning the nature and scope of the safety problem presented by these wheels to devise an effective solution that can be implemented as soon as possible. A public hearing was held on March 17, 1978.

The purpose of this emergency order is twofold: (1) To remove these wheels from all cars as soon as possible, and (2) to prescribe interim precautions for the operation of cars equipped with these wheels.

EFFECTIVE DATE: This emergency order becomes effective March 27, 1978.

ADDRESS: (1) Submission of written comments: All correspondence concerning this emergency order should identify the emergency order number and notice number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

(2) Examination of written comments: All correspondence concerning this emergency order will be available for examination during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-0924.

Principal Attorney: Edward F. Conway, Jr., Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

A total of 270,820 70-ton 1 percent carbon cast steel wheels (commonly referred to as "70T U-1 wheels") were produced during the period 1958-1969 by the Southern Wheel Company (ABEX). No "70T U-1 wheels" have been produced since late 1969. These wheels are 1 percent carbon steel wheels. The relatively high carbon content in these wheels (all wheels produced since 1970 contain not more than .75 percent carbon) reduces wheel wear. However, it also increases the susceptibility of these wheels to thermal abuse or cracking as a result of heat generated when the brake shoes are applied to these wheels during heavy, prolonged braking.

Because the "70T U-1 wheels" were experiencing a relatively high number of wheel failures, the Association of American Railroads (AAR) amended its Interchange Rules, effective April 1, 1977, to provide that whenever the truck of a freight car with these wheels was dismantled on a repair track, they should be replaced with other type wheels. The AAR further amended its Interchange Rules, effective January 1, 1978 to provide that when a freight car with these wheels was on a repair track for any reason, they should be replaced.

During the month of February 1978, two major accidents occurred which

involved the failure of "70T U-1 wheels" and the derailment of trains carrying hazardous materials. The first accident occurred at Waverly, Tenn., on February 22, 1978. On February 24, 1978, a derailed tank car containing liquified petroleum gas (propane) exploded, resulting in the death of 12 persons and injury to approximately 48 persons. The force of the explosion destroyed two city blocks and caused much additional damage.

The Second major accident involving the failure of a "70T U-1 wheel" occurred on February 28, 1978 at Bristow, Ky. (near Bowling Green). Although the accident resulted in no casualties or release of hazardous materials, 33 cars were derailed at a speed of 48 mph, causing extensive damage to equipment and lading.

As a result of investigations conducted related to these accidents, the National Transportation Safety Board (NTSB) issued Safety Recommendations R-78-11 through R-78-13 on March 9, 1978. Those recommendations proposed that the FRA:

Use emergency powers to prohibit the use of cars equipped with Southern Wheel Company high carbon wheels from carrying hazardous materials or from being placed in trains moving hazardous materials. (Class I—Urgent Action) (R-78-11.)

Use emergency powers to expedite the replacement of Southern Wheel Company high carbon wheels 70T and UI. (Class I—Urgent Action) (R-78-12.)

Promulgate regulations to establish adequate service records so that similar wheel problems will be promptly detected in the future and corrective action taken. (Class I—Urgent Action) (R-78-13.)

In its safety inquiry conducted to develop additional information on this problem, the FRA was not able to determine the number and distribution of "70T U-1 Wheels" remaining in service.

However, FRA did learn that about 179,500 or two-thirds of all "70T U-1 Wheels" produced by ABEX were purchased by the Family Lines—the Seaboard Coast Line (SCL), Louisville and Nashville (L&N), and Clinchfield Railroads. The remainder were purchased by 46 other railroads and three car manufacturers.

The L&N is the largest purchaser. It purchased a total of 122,030 of these wheels; 100,968, or 82 percent, were installed as original equipment on new cars and 21,062, or 18 percent, were used as maintenance replacements.

The SCL is the second largest purchaser. It purchased 52,997 of these wheels; 44,160, or 83 percent, were installed on new cars and 8,837, or 17 percent, were used as maintenance replacements.

If 83 percent of the wheels purchased by other railroads were also installed on new cars, a total of 224,100 out of all "70T U-1 Wheels" produced were installed on new cars. By examining their records, the railroads should be able to identify which new cars received these wheels.

The task of determining on which cars the remaining 45,900 wheels used as maintenance replacements were placed is much more difficult. All of the railroad representatives participating in the public hearing indicated that they do not have records that indicate on which cars these wheels were placed. Moreover, the difficulty of tracing these wheels is further compounded by the fact that railroads routinely replace wheels on the cars of other railroads that they receive in interchange. Consequently, the only way that maintenance replacement wheels can be located is by visually inspecting all of the wheels of 70-ton or less capacity cars. (70-ton capacity wheels are used as replacement wheels on 50-ton capacity cars due to the unavailability of 50-ton replacement wheels.)

In a sampling of 500 of its 5,520 new cars that were originally equipped with these wheels, the SCL found an average of 3.4 "70T U-1 Wheels" on each of these cars. In other words, 42.5 percent of the wheels inspected in this sampling were "70T U-1 Wheels." If the results of this sampling are representative of the number of wheels that are still in service, there may be as many as 114,750 "70T U-1 Wheels" still in service.

The FRA did not obtain sufficient information in its safety inquiry to make a comprehensive analysis of the nationwide accident and failure record of "70T U-1 Wheels." It has, however, obtained sufficient information to conclude that these wheels have an abnormally high accident and wheel failure rate.

The L&N Railroad has a total of 527,200 wheels in its fleet of 65,000 cars. It purchased a total of 122,030 "70T U-1 Wheels." Assuming on the basis of the SCL sampling that 42.5 percent of these wheels are still in service, 51,582 or 10 percent of the wheels in service on the L&N are "70T U-1 Wheels." During the period January 1, 1977 to March 13, 1978, the L&N experienced 11 derailments due to wheel failure; six of these derailments involved "70T U-1 Wheels." These wheels which constitute only 10 percent of the wheels in the L&N fleet were involved in almost 55 percent of the derailments due to wheel failure.

The SCL Railroad has a total of 507,200 wheels in its fleet of 63,400 cars. It purchased a total of 53,997 "70T U-1 Wheels." Assuming on the basis of its sampling that 42.5 percent of these wheels are still in service, 22,948 or less than 5 percent of the wheels in service on the SCL are "70T U-1 Wheels." Between January 1, 1973 to March 1, 1978, the SCL experienced 245 wheel failures; a total of 84 or 34 percent of the failures involved "70T U-1 Wheels." These wheels which make up less than 5 percent of the wheels in the SCL fleet accounted for 34.3 percent of wheel failures. Moreover, according to the SCL, approximately 60 percent of the wheel failure derailments during the same 62-month period involved "70T U-1 Wheels."

Data relating to wheel failures on railroads other than the Family Lines which have been received by FRA since the public inquiry and certain FRA train accident data also appear to suggest strongly an abnormal rate of failure for "70T U-1" wheels.

The FRA has determined that unusually high failure rates such as those discussed above constitute an emergency situation involving a hazard of death or injury to persons affected by rail transportation activities, including members of the public who might be subjected to the unintentional release of hazardous materials and railroad employees engaged in the operation of trains. A single wheel failure occurring at medium or high speed in a train carrying hazardous materials can result in a powerful explosion or detonation, the contamination of a city water supply, or the poisoning of persons along the right-of-way. While the FRA respects the action taken already by the railroad industry to abate this hazard, and particularly that taken by the Family Line companies, the FRA believes that the public safety will be adequately served only by the exercise of statutory authority reflected in the order below. Absent the provisions mandated below, compliance with the industry initiatives would be essentially voluntary and would likely require an extended period of time to be completely effective.

By contrast, literal adoption of NTSB recommendation R-78-11 would bring commerce essentially to halt for the period necessary to inspect each of eight wheels on more than 800,000 70-ton or smaller cars in the national fleet. The FRA does not believe that so drastic an action was intended by the NTSB.

Therefore, FRA has chosen to mandate the removal of these wheels from service through the use of procedures which will abate the present emergency in a way which is consistent with the ability of carriers to accomplish the task but which negates the possibility of undue delay. Specifically, carriers are prohibited from accepting for shipment after March 31, 1978, any car containing placarded hazardous materials, unless it has been ascertained that the car is not equipped with "70T U-1" wheels. If a car is found to be equipped with such wheels, the car may be moved only to the nearest point as which the subject wheels can be removed. In addition, carriers are required to share available

information concerning the identity of cars originally equipped with these wheels and stencil an identifying mark on each car which will indicate whether "70T U-1" wheels are present. Through this process, all cars known to be equipped with such wheels should be stenciled by June 30, 1978. After that date no car listed as having been equipped with "70T U-1" wheels may be hauled in any train unless it has been stenciled. All 70-ton or less capacity cars placed on a shop or repair track after March 31, 1978, whether originally equipped with such wheels or not, must be inspected and an appropriate stencil applied. No car stenciled as being equipped with these wheels may be hauled in a train containing hazardous materials once the stencil has been applied.

These procedures together with other terms of the order will accomplish two major objectives. First, expeditious action will be taken to assure that cars known to have been originally equipped with the subject wheels which could create the danger of an accident involving hazardous materials are removed from service. Second, the inspection process prescribed by the order, together with such other measures as the industry may institute, will result in the removal of all subject wheels from service by a mandated deadline of December 31, 1978.

Therefore, pursuant to the authority of Section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432), delegated to the Federal Railroad Administrator by the Secretary of Transportation (49 CFR 1.49(n)), it is hereby ordered:

1. After March 31, 1978, a 70-ton or less capacity freight car containing any hazardous material required to be placarded by the Department of Transportation Hazardous Materials Regulations ("placarded hazardous material") may not be accepted for transportation unless the car has been inspected to ascertain whether it is equipped with any Southern Wheel Company (ABEX) 33", 70-ton, one-wear 1 percent carbon cast steel wheels manufactured during the years 1958-1969 ("70T U-1 wheels"). In the event it is ascertained that the car is equipped with any "70T U-1 wheel", and the hazardous material is not offloaded at the point of origin, the car may be moved only to the nearest point where the "70T U-1 wheels" can be removed.

2. After June 30, 1978, no car listed under the provisions of paragraph 6 of this order as having been originally equipped with "70T U-1 wheels" may be hauled in any train unless it has been inspected and marked as prescribed in paragraph 7 of this order.

3. No car stenciled as prescribed in paragraph 7b of this order to indicate that it is equipped with "70T U-1 wheels" may be hauled in a train containing any placarded hazardous material.

4. After March 31, 1978, each 70-ton or less capacity car that is on a shop or repair track and has not been stenciled to indicate whether it is or is not equipped with any "70T U-1 wheels", shall be inspected and stenciled as prescribed in paragraph 7 of this order before the car is removed from that shop or repair track.

5. After December 31, 1978, a car with one or more "70T U-1 wheels" may not be hauled in any train.

6. By April 1, 1978, each railroad that purchased any "70T U-1 wheels" shall compile a list of the cars on which these wheels were installed as original equipment and distribute that list to its mechanical forces, all other railroads, and the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

7. Each railroad that finds on its line a car listed pursuant to paragraph 6 of this order as being originally equipped with "70T U-1 wheels" shall inspect that car to determine whether it still has any of these wheels. This inspection shall be made at the nearest car inspection facility or, if proper protection is provided to the personnel making the inspection, at the point the car is found.

a. If the car inspected does not have any "70T U-1 wheels" or they are replaced with other wheels, the car shall be stenciled with a "yellow dot" before the car is moved from the point of inspection. The "yellow dot" shall be at least 6 inches in diameter and centered in a black square that is at least 12 inches square and is located immediately to the right of the consolidated stencil on each side of the car.

b. If the car inspected has any "70T U-1 wheels" and they are not all replaced with other wheels, the car shall be stenciled with a "white dot" before the car is moved from the point of inspection. The "white dot" shall be at least 6 inches in diameter and centered in a black square that is at least 12 inches square and is located immediately to the right of the consolidated stencil on each side of the car.

8. Each railroad shall immediately destroy its supply of "70T U-1 wheels" in addition to those it removes from cars. This shall be accomplished by cutting a hole through the plate of each wheel.

9. Each railroad shall report in writing to the FRA by the 10th of each calendar month through the month of January 1979, the following information:

a. The total number of cars inspected during the preceding month under this emergency order.

b. The total number of cars on which "70T U-1 Wheels" were found and the number of wheels removed and destroyed.

c. The total number of cars on which "70T U-1 Wheels" were found but were not removed and the number of wheels not removed.

The report shall be addressed to the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

A civil penalty of $250 to $2,500 will be assessed for any violation of this order (45 U.S.C. 438).

Opportunity for formal review of this emergency order will be provided in accordance with section 203 of the Federal Railroad Safety Act of 1970 by written petition.

Issued in Washington, D.C., on March 23, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-8161 Filed 3-24-78; 9:55 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Revised Service Order No. 1308]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars

AGENCY: Interstate Commerce Commission.

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

SUMMARY: The Union Pacific is unable to furnish individual shippers with lots of 25 or 50 jumbo covered hoppers cars for three consecutive shipments of grain from Kansas and Nebraska origins to destinations on the West Coast, Revised Service Order No. 1308 waives the three-consecutive-trip provision of the applicable tariff, enabling the Union Pacific to make a more equitable distribution of its supply of covered hopper cars among all potential users of these cars.

DATES: Effective March 22, 1978; expires 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: 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 20th 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 Co. (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,* or each to comprise 2,375 net tons loaded into not more than twenty-five (25) 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 [Amended]

(a) *Distribution of covered hopper cars.* The Union Pacific Railroad Co. (UP) is authorized to waive the three-consecutive-trip requirements applicable to 4,750-ton* or to 2,375-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.

*Change.

(d) *Effective date.* This order shall become effective at 12:01 a.m., March 22, 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. Member Joel E. Burns not participating.

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

[FR Doc. 78-8004 Filed 3-24-78; 8:45 am]

proposed rules

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1001]

[Docket No. AO-14-A56]

MILK IN THE NEW ENGLAND MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision proposes certain changes in the New England Federal milk order based on industry proposals considered at a public hearing held in November 1976 and January 1977. The major proposed amendments would change the definition of a plant, revise the pooling standards for supply plants, establish the same Class II price at all locations, and increase the maximum marketing services deduction by 2 cents a hundredweight. These revisions are intended to reflect changes in the supply structure for the market and to continue a viable program of marketing services for producers who are not members of a cooperative association. The decision also recommends that a base-excess payment plan for dairy farmers and an advertising and promotion program not be adopted.

A referendum will be conducted to determine whether producers favor issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing.—Issued October 15, 1976; published October 21, 1976 (41 FR 46454).

Recommended decision—Issued December 6, 1977; published December 12, 1977 (42 FR 62444).

Extension of time for filing exceptions—Issued December 29, 1977; published January 4, 1978 (43 FR 779).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New England marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Framingham, Mass., on November 15—19, 1976, and January 11-13, 1977, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Program Operations, on December 6, 1977, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under issue number 1, "Definition of a plant", eight new paragraphs are added at the end of the discussion.

2. Under issue number 2(a), "Pool supply plants—Qualifying months and shipping percentage", one new paragraph is added after paragraph 13.

3. Under issue 3(a), "Assignment provisions", three new paragraphs are added after paragraph 11.

4. Under issue 3(b), "Assignment provisions", two new paragraphs are added after paragraph 20.

5. Under issue 3(c), "Assignment provisions", a paragraph is added after paragraph 6.

6. Under issue 4(b), "Class II location adjustments":

(a) Paragraph 6 is revised.

(b) Two new paragraphs are added after paragraph 6.

(c) Ten new paragraphs are added after paragraph 24.

7. Under issue 5, "Seasonal incentive plans", two new paragraphs are added after paragraph 15.

8. Under issue 6, "Advertising and promotion program", a paragraph is added at the end of the discussion.

The material issue on the record of the hearing relate to:

1. Definition of a plant.

2. Pool supply plants.

(a) Qualifying months and shipping percentage.

(b) System pooling.

3. Assignment provisions.

(a) Assignment of handlers' receipts to utilization.

(b) Class II set-aside.

(c) Inventory variations.

(d) Assignment of diverted milk.

4. Class II location adjustments.

(a) Increase the adjustments.

(b) Decrease the adjustments.

5. Seasonal incentive plans.

6. Advertising and promotion program.

7. Marketing services deduction.

Findings And Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Plant definition.* The "plant" definition of the order should be amended to distinguish on a different basis than now between facilities (plants) at which order prices should apply when they are pooled and facilities that should not be pricing points under the order (bulk reload points). As defined herein, a plant would be the land and buildings, together with their surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, processing or packaging of milk or milk products. Separate premises used for transferring bulk milk from one tank truck to another tank truck (bulk reload Points) would not be plants, provided that stationary storage tanks are not maintained and used as such premises. In addition, the cooling of milk, collection or testing of samples, and washing and sanitizing of tank trucks would be recognized as permissible activities associated with the operation of bulk reload points.

Separate premises used as distribution points in the disposition of packaged fluid milk products would continue to be excluded from the plant definition. A proposal to amend the plant definition contained no substantive change concerning distribution points, although the wording of the proposal differed somewhat from current order language. No testimony was presented to revise or clarify the existing language. Consequently, no related change is made in the order and no further discussion of this aspect of the plant definition is contained herein.

The order currently defines a plant in part as an "* * * establishment that is operated by one or more persons engaged in the business of handling fluid milk products for resale or manufac-

ture into milk products and used for the handling or processing of milk or milk products." The definition excludes bulk reload points if facilities for washing and sanitizing cans or tank trucks are not maintained and used on the premises.

Under current provisions, identical facilities used to transfer milk from farm trucks to over-the-road tankers, and to wash and sanitize tank trucks, may be treated either as plants or bulk reload points. This divergent treatment depends on whether the facility is operated by a handler or by someone other than a handler. If handler operated, the facility is a plant and, if pooled, a pricing point for milk received from producers. If operated by someone other than a handler, such as a milk hauler, the facility is not a plant. In this case, milk transferred at such location is treated as direct-shipped milk and is priced at the location of the pool plant where received or the non-pool plant to which diverted. In addition, a handler operating a facility that would otherwise be a plant may establish the facility as a reload point by having trucks washed and sanitized at other locations.

Three cooperative associations (Cabot Farmer's Cooperative Creamery, Inc.; Richmond Cooperative Association, Inc.; and St. Albans Cooperative Creamery, Inc.) proposed that the plant definition be amended to delete the "handler" criterion for determining plant status, as adopted herein.

However, under their proposal, a bulk reload point would be excluded from the plant definition only if the activities performed at the facility are limited to the transfer of milk from one tank truck to another. Any other activity, such as cooling, standardizing, processing, butterfat testing, or the existence of any permanent truck washing or milk storage facilities, would qualify such operation as a plant. The proposal was supported by the Washington and Rensselaer Counties Producers Cooperative Association, Inc.

The proposal received qualified support from two coopeative associations, and it was opposed by a proprietary handler and another coopeative association. These participants presented varying modifications which are discussed later.

Proponent cooperative associations, through their proposed plant definition, seek to eliminate the various means by which handlers have been able to establish as reload points facilities that would otherwise qualify as plants. This has been accomplished by leasing such facilities to milk haulers, who are not persons engaged in the business of handling fluid milk products for resale, or by having trucks washed and sanitized at other locations.

Record evidence establishes that at least 12 of the reload points in operation at the time of the hearing were leased to milk haulers, and at least one had trucks washed at other locations so as to qualify as a reload point. Of the 12 facilities operated under leasing arrangements, 9 were identified as former pool supply plants under the current New England or former Boston Regional order.

The purpose of the proposal, as expressed by proponents, is to establish "plants", and hence pricing points, as close to the farm as possible and to further the present objective under the order of assigning the nearest milk first to Class I use. This is now accomplished, with respect to supply plants, by assigning available Class I use at distributing plants to receipts from supply plants in sequence, beginning with the plant neareast to Boston. Proponents testified that a large proportion of milk that is direct-shipped to pool distributing plants in the nearby plant zone is obtained from distant areas through reload points and should be priced at "plants", near the source of supply, rather than at pool distributing plants. In proponents' views, the order objective of assigning the nearest milk first to Class I use is not being realized because the order does not distinguish between milk direct-shipped to city plants from nearby and distant areas.

A spokesman for one of the proponent coopeatives presented an example to illustrate the above point. In October 1976, quantities of milk shipped from the cooperative's pool supply plant located in Zone 17 to a pool distributing plant in the nearby plant zone were assigned to Class II use. The distributing plant operator also received milk through a reload point located in Zone 27, and such milk received first priority in assignment to the distributing plant's Class I use. If the reload point in Zone 27 had been a pool supply plant, receipts from the plant would have been assigned to Class I use only after the assignment of direct-shipped milk and receipts from proponent's supply plant located closer to Boston.

Proponents documented the degree to which New England handlers have altered procurement practices by shifting from supply plants as a source of supply to direct-shipped milk. The number of pool supply plants declined from 43 in 1966 to 17 by August 1976. On a more current basis, seven pool supply plants were eliminated between August 1975 and August 1976, and the volume of producer milk priced at such plants declined by 12.6 percent during the same time period. Proponents contend that the closing of supply plants, particularly during recent times, was a deliberate action on the part of handlers to convert their supply to direct-shipped milk status. This conclusion is supported by the fact that 10 of the 23 reload points in operation at the time of the hearing were identified as former pricing points under the order.

In proponents' view, this change in procurement practice has enabled handlers to by-pass provisions requiring the assignment of the nearest milk first to Class I use. They estimate that in September 1976, 148 million pounds (60 percent) of the 245 million pounds of nearby plant receipts were assembled largely at distant reload points.

It was estimated also that if the reload point milk had been supply plant milk, about 40 million pounds of milk in Class II uses would have been priced at distant supply plants rather than at nearby plants.

Proponents contend that a change in the point of pricing for milk in Class II uses in the manner they propose would have saved producers 137 thousand dollars in transportation costs in September 1976 (1.64 million dollars on an annual basis). If such milk had been priced at supply plants, handlers, rather than producers, would have incurred the transportation cost for milk in Class II uses at city plants. Proponents state that handlers, by switching to direct-shipped milk as a source of supply, have transferred to producers the cost of moving distant supplies of milk to city plants for Class II use.

A spokesman for two cooperatives (Eastern Milk Producers Cooperative Association, Inc., and Northern Farms Cooperative, Inc.) supported that part of the proposed plant definition that would delete the "handler" criterion for defining a plant. He reiterated proponents' view that the present provision provides the means for handlers to avoid the pricing of milk at country plants, thereby transferring to producers the total cost of transporting milk to market. Both cooperatives fully support a concept of pricing milk close to the farm where produced.

The witness testified also that the plant definition should be amended to provide that trucks may be washed and sanitized at reload points. Otherwise, the definition would provide an incentive for reload point operators to engage in poor sanitation practices to avoid having the reload point defined as a plant. The witness testified that washing and sanitizing trucks is an essential and integral part of a proper reload operation. He said that other functions, such as manufacturing, milk testing, or cooling and storage, should cause a facility to be defined as a plant.

The spokesman for Yankee Milk, Inc., a cooperative association, opposed the proposed plant definition on the grounds that it would eliminate the current flexibility handlers have in obtaining their milk from pool

supply plants or having it direct-shipped to their city plants. He testified that the elimination of such flexibility would weaken rather than strengthen milk marketing cooperatives.

The cooperative proposed a modification to the present plant definition. It would permit a handler to designate as a bulk reload point any facility having no manufacturing capacity, provided the handler requested such designation in writing to the market administrator before the month in which the designation would apply, and provided further that any reload facility currently excluded from the plant definition would continue to be excluded for two years from the effective date of any amendment resulting from this proceeding. The association's spokesman stated that the proposed modification would provide complete flexibility for all handlers in determining whether their milk shall emanate from a plant or be direct-shipped. The spokesman further stated that if the modification were not adopted the order should provide that the plant definition be limited to only facilities with manufacturing capacity.

A proprietary handler serving the market opposed the proposed plant definition because, if adopted, five reload points through which the handler currently receives direct-shipped milk would acquire plant status. According to the handler such change in status could result in increased costs since shipping requirements would have to be met in order to qualify the new plants as pool supply plants under the order. Additionally, if these plants were pooled, increased costs would result whenever receipts from such plants were assigned to Class II use at the handler's distributing plants. The handler would then incur the cost of transporting the milk to his nearby zone plants. The witness testified further that costs also would be incurred on supply plant receipts assigned to Class I use since transportation costs exceed the order Class I location adjustments. In a post-hearing brief, the handler recommended that any amendment adopted should be in line with the modifications proposed by Yankee Milk.

Much of the testimony concerning the proposed plant definition focused on whether producers or handlers should stand the cost of transporting milk to city plants for Class II use. The degree to which either producers or processors recover transportation costs depends on the point at which such milk is priced. Milk received at city plants from supply plants is priced at the country location of the plant of first receipt. A handler's Class I and Class II prices applicable at a supply plant in the 21st Zone (between 201 and 210 miles from Boston) are 40 cents and 5.8 cents less, respectively, then the corresponding prices at plants in the nearby plant zone. Additionally, a producer's blend price at the Zone 21 plant is 40 cents less than the city blend price since a dairy farmer delivering milk to the supply plant would not incur the cost of shipping milk to the city. A city processor receiving milk from the supply plant, however, would incur the transportation cost. To the extent milk is used in Class I, the processor would recover 40 cents of the actual transportation cost through the location adjustment. To the extent milk is used in Class II, the processor would recover only 5.8 cents of the actual shipping cost.

On milk that is direct-shipped to distributing plants, producers pay the hauling cost on all milk delivered regardless of use. The purchasing city processor, on the other hand, accounts to the pool on a classified use basis. The price of milk used in Class I is adjusted to reflect the cost of transporting bulk milk[1] while milk used in Class II reflects the cost of transporting manufactured products. Consequently, producers, through the pool, absorb that portion of the transportation cost that is not paid for by the processor for milk used in Class II.

Proponent cooperatives contend that city processors should bear the cost of transporting milk to the city for Class II use, but avoid doing so by receiving direct-shipped milk. As a result proponents claim they are disadvantaged, relative to suppliers of direct-shipped milk, in competing for city outlets with milk assembled at their supply plants. Two of the proponent cooperatives operated one supply plant each while the other operates two supply plants.

Proponents further testified that they have had to pay all or a part of the transportation cost for milk shipped from their supply plants to distributing plants that is assigned to Class II use. They stated that if they do not, distributing plant accounts may be lost to producers who supply the market on a direct-shipped basis, thus jeopardizing the pooling of their supply plants. It is observed that the pooling problem represents the crux of proponents' testimony to amend the plant definition.

Through their proposal to amend the plant definition, proponents seek to decrease substantially the amount of direct-shipped milk in the market by having reload points, through which such milk is moved, treated as plants. Their proposal would result in "plant" status for virtually all of the 23 reload points in operation at the time of the hearing, if no operational changes were made. This would place most other handlers in the same position as proponents in having to supply a substantial part of the fluid milk needs of the market through supply plants. Additionally, another proposal supported by proponent cooperative associations (discussed under issue 3a) would further encourage city processors to utilize supply plants rather than direct-shipped milk.

The plant definition should not be amended for this purpose. No valid economic goal would be achieved in discouraging the use of direct-shipped milk to supply market needs. There is no evidence that producers, for the most part, are unwilling to supply the needs of city processors on a direct-shipped basis. To the contrary, the record amply demonstrates that city processors increasingly have obtained direct-shipped milk from producers at varying distances from the market center at existing price levels. There is no evidence that the creation of numerous additional supply plants by administrative fiat is necessary to insure that the market is adequately supplied with milk or that more orderly marketing conditions would result than can reasonable be expected from the use of direct-shipped milk.

The record evidence establishes that existing supply plants serve a useful function in balancing an important part of the fluid milk needs of the market and in supplying milk of standardized butterfat content as desired by certain handlers. They supply various city processors with milk as needed and serve as manufacturing outlets for milk which is in excess of the weekly and seasonal needs of such processors. Ten of the 16 supply plants in operation at the time of the hearing were substantially involved in the processing of manufactured dairy products. Dairy farmers delivering to supply plants share in the total fluid milk sales of the market throughout the year since such plants are pooled in recognition of the service they provide in supply a part of the fluid milk needs of the market.

Although supply plants serve a useful function, steps should not be taken to create administratively additional plants merely to decrease the quantity of milk that is direct-shipped to city plants. The order establishes the class prices that are necessary to insure an adequate supply of milk for the market and to encourage the movement of that milk toward the consuming centers. Within the pricing structure, it is expected that city processors will assemble milk in the most efficient manner to compete successfully with other processors.

The conversion over the years to direct-shipped receipts represents a

[1] Various witnesses indicated that the Class I location adjustments are inadequate to cover transportation costs. However, this issue was not open for consideration in this proceeding.

procurement method adopted by city processors to reduce costs in obtaining milk supplies. The fact that they have been successful in obtaining direct-shipped milk demonstrates a willingness by dairy farmers to supply milk on this basis. Order provisions should not discourage this marketing practice.

Proponents may be disadvantaged somewhat in supplying city plants through supply plants, relative to direct-shipped milk, but this represents a business decision to use pool supply plants. For the most part, proponents have the same opportunity as others to supply their accounts with direct shipments of milk. To the extent that this might result in a problem in pooling supply plants, revised shipping standards discussed herein under issue 2(a) should provide some relief. Additionally, direct shipments of bulk milk by a cooperative association in its capacity as a handler are included as qualifying shipments in pooling a group of supply plants. Further changes concerning the pooling of a group of plants (discussed under issue 2(b)) will provide additional flexibility to cooperative association handlers that operate supply plants. Also, order revisions discussed under issued 3(b) are aimed at mitigating Class II assignments at supply plants that result from unavoidable Class II uses at distributing plants.

Althought proponents' proposal should not be adopted, testimony on the record establishes that a revision of the plant definition is appropriate. The current definition of a plant prohibits a handler from operating a reload point if washing and sanitizing facilities for tank trucks are maintained and used on the premises. Under the order, such handler-operated facilities are treated as plants while identical facilities operated by haulers are treated as reload points.

Handlers have used two methods available to them under these provisions to assemble milk for direct shipment to city plants. One cooperative handler has trucks washed at locations other than where milk is transferred to over-the-road tankers, while other handlers have leased facilities to milk haulers. Nine of ten former "plants" are operated under such leasing arrangements while one is hauler owned. Eight of the nine that are leased have washing facilities for tank trucks. It should not be necessary for handlers to make such cumbersome adjustments to obtain direct-shipped milk.

The sanitation of tank trucks, which is a necessary function associated with the maintenance of a high quality product, can be performed at any location. The performance of such function, however, does not sufficiently distinguish between a plant and a reload point. Handlers should not be encouraged to engage in poor sanitation practices to operate a reload point.

In delineating between plants and reload points, it is desirable to utilize criteria that reasonably reflect the different functions that are performed at plants and reload points. In conjunction with the use of distinguishing characteristics, it is desirable also to revise the plant definition to delete the "handler" criterion as a basis for determining plant status. Failure to do so would result in a stituation where identical facilities could continue to be treated as either plants or reload points. Handlers would still find it necessary to lease facilities to milk haulers in order to operate reload points. Arrangement that cause handlers to turn over the partial control of facilities or operations, possibly resulting in a loss of control over the quality of the product, should not be encouraged.

A plant should be a facility at which a dairy farmer's milk is received and where it is processed, packaged and handled in such a manner that the identity of any individual producer's milk is not readily ascertainable. The record establishes that in this market such a facility normally carries on manufacturing operations.

A witness for a cooperative association stated that any time milk is transferred from one tank truck to another, the individual identity of a producer's milk is lost and, consequently, such location should be defined as a plant to establish it as a pricing point if it is pooled. It is possible that a dairy farmer's milk could be transferred to more than one tank truck for shipment to different plants. It is also possible that a portion of a diary farmer's milk may be held overnight in a tank truck for shipment the next day. For the most part, however, the identity of a dairy farmer's milk has been routinely ascertained at the reload points serving the market. The record evidence does not establish any insurmountable problem in this respect.

The degree to which the individual identity of milk can be ascertained decreases at facilities where milk is received and manufactured and where stationary storage facilities are maintained and used. Such facilities increase the likelihood that milk of dairy farmers will be commingled to a much greater degree. In the case of stationary storage facilities, milk is assembled and transshipped to a larger number of processing plants than is customary under the operation of a reload point. Such facilities may be used to accumulate milk over weekends and during months of relatively greater production, either for the ultimate shipment to fluid milk plants as the need arises or for disposition to manufacturing facilities when not needed in the market for fluid use. In this way a balancing function, as contrasted to a reload function, is performed for the market. The maintenance and use of stationary storage facilities thus provides a reasonable basis (in addition to processing) for distinguishing between a plant and a reload point.

In addition to transferring milk from one tank truck to another, certain other functions should be permitted at a reload point. As provided herein, the cooling of milk, collection or testing of samples, and washing and sanitizing of tank trucks should be recognized as permissible activities associated with the operation of a reload point. These activities insure that high quality milk can be direct-shipped to pool distributing plants. To prohibit such practices would result in situations where handlers would be encouraged to engage in practices that are not conducive to the maintenance of high quality products.

It is concluded that the plant definition adopted herein provides a reasonable basis for distinguishing between a facility that is a plant and one that is a reload point. The definition will provide appropriate flexibility to handlers in operating reload points for the direct-shipment of milk to pool distributing plants.

The supply plant provisions of the order refer to the plant definition. Consequently, conforming changes are included in the supply plant provisions accompanying this decision to carry out the intent of the adopted plant definition.

Various interested parties filed exceptions to the recommended plant definition and the findings and conclusions of the recommended decision. One cooperative association, which supports the recommended plant definition as long as order location adjustments do not fully reflect the cost of transporting milk, excepted specifically to the finding that "no valid economic goal would be achieved in discouraging the use of direct-shipped milk to supply market needs." Exceptor maintains that pricing milk at the farm, or at the point of first receipt (including facilities at which milk is reloaded), establishes the true location value of milk, prevents the imposition of excessive hauling charges on producers, promotes efficiencies by assigning first to Class I use the milk that is produced closest to the population center of the market, and prevents handlers from burdening the pool with unnecessary transportation costs on milk in Class II uses.

Other cooperative associations that proposed a tighter plant definition (i.e., a definition that would provide plant status for most of the reload points now in operation) excepted to the recommended plant definition.

Their exceptions reiterated the views expressed at the hearing and essentially are those expressed in the preceding paragraph.

The findings of the recommended decision clearly set forth exceptors' views and the reasons for denying exceptors' proposals. The record established that the New England market increasingly has become a market that is supplied by milk that is shipped directly from farms to distributing plants. Direct shipment represents an efficient means of supplying market needs and should not be discouraged by prohibiting handlers (including cooperative associations) from operating reload facilities under their direct control.

Additional exceptions filed by cooperative associations and a proprietary handler requested that more flexibility be provided in the plant definition by allowing the use and maintenance of stationary storage tanks at bulk reload points. If such request were granted, only plants with processing facilities could be pricing points under the order.

The recommended plant definition is not intended to eliminate all country pricing points except those that have have manufacturing operations as was proposed by some participants at the hearing. The record established that a finer line of delineation than manufacturing capacity is needed to distinguish between plants and reload points. The reasons for the use and maintenance of stationary storage facilities as a means of distinguishing between the different functions that are performed by plants and reload points were set forth earlier in the decision and need not be repeated here.

A cooperative association excepted to the maintenance and use of storage tanks as being part of the plant definition on the grounds that such criterion was not specifically proposed. Also, exceptor stated that if the plant definition could not be modified to provide for the use and maintenance of stationary storage tanks at bulk reload points, the hearing should be reopened to consider additional testimony.

The maintenance and use of stationary storage tanks was not specifically proposed. However, substantial testimony and evidence was presented at the hearing concerning the varied facilities that should or should not constitute a plant or a pricing point under the order. The testimony ranged from the view that milk should be priced at any location where milk is transferred from one tank truck to another to the view that only facilities with manufacturing capacity be plants. Within these two extremes, substantial testimony was presented about the functions performed by various facilities in the market.

The issue of what should constitute a plant was fully explored on the record of the proceeding. Based on the analysis of the record, it is determined that the maintenance and use of stationary storage facilities represents one of the means of distinguishing between plants and reload points. The decision describes how a facility with stationary storage tanks operates as a plant rather than as a reload point, and the description is based on record evidence. There is no basis to reopen the hearing to receive additional testimony to reconsider the issue.

2(a) *Pool supply plants—Qualifying months and shipping percentages.* Order provisions for pooling a supply plant should be revised to coordinate the shipping requirements for such plants with the seasonal supply-demand pattern of the New England market. As provided herein, a pool supply plant would be a plant from which in the months of August and December at least 15 percent, and in the months of September through November at least 25 percent, of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as diverted milk, to pool distributing plants. Currently, a supply plant, to be pooled, must ship 15 percent of receipts during July and 25 percent of its receipts during August through November.

A proposal to amend the pooling requirements as provided herein was made by four cooperative associations. It was supported by three additional cooperatives and a proprietary handler. One cooperative opposed the proposal.

To share in the pool proceeds of the order, supply plants must demonstrate the ability to furnish market fluid milk needs by shipping milk to pool distributing plants. The performance requirements, however, must be tailored to market conditions to insure that shipments to distributing plants are encouraged during those months when milk for fluid use is most needed. Shipments should not be encouraged to a greater degree than necessary to satisfy fluid milk needs, or during those months of relatively greater milk production. To do so results in uneconomic movements of milk to distributing plants solely for pooling purposes rather than to meet fluid milk needs. Record evidence establishes that the market supply-demand pattern is such that the current order shipping requirements should be revised to discourage uneconomic movements of milk.

Spokesmen for the proponent cooperative associations and the proprietary handler supporting the proposal testified that requiring supply plants to make qualifying shipments to pool distributing plants in July results in uneconomic backhauls of milk. They testified that this occurs when milk shipped from a supply plant to a distributing plant displaces the milk of other producers located closer to the distributing plant. The "nearby" milk must then be shipped back to the supply plant or diverted to other plants for manufacturing.

The month of July should be replaced with December as a month in which supply plants are required to make shipments to pool distributing plants. Milk production during July, although declining seasonally from peak production months, is still relatively high with respect to sales of fluid milk products. In contrast, December is a month of relatively low production and greater fluid milk sales. During the period 1970 through 1976, average daily deliveries by producers serving the New England markets were greater in July than December, except for 1972, while receipts of producer milk used in Class I were greater in December than in July during the entire period. The Class I utilization of producer milk during the two months highlights the relationship of sales to receipts and establishes the need to utilize December rather than July as a qualifying month. For the 1970 through 1976 period, producer milk in Class I averaged 57.6 percent for July compared to 67.3 percent for December.[2]

A cooperative association opposed the deletion of July as a qualifying month. A spokesman stated that it is preferable to pool supply plants in July rather than in August because production is declining in August. With higher production levels in July, the spokesman claimed, the cooperative can pool its supply plants without impairing the efficiency of its manufacturing plants through reduced volume that results from making shipments to distributing plants. However, shipments should be required when milk is needed to meet fluid milk sales, and not when it is convenient to pool a plant without impairing manufacturing efficiency. Deleting July as a qualifying month for supply plants will promote more orderly marketing conditions in that shipments to distributing plants will not be required at a time when supply plants normally are not needed to supplement fluid milk needs.

August marks the beginning of the period when supply plants should be encouraged to make shipments to distributing plants. Average daily deliveries by producers in August were lower than in July during the entire 1970 through 1976 period. Class I utilization of producer milk in August was greater than in July for the same

[2] Official notice is taken of the Market Administrator's "Monthly Statistical Report" for December 1976.

period. Also, August is the beginning of the period when production is encouraged to meet market needs under the market's seasonal incentive plan.

The order currently requires that supply plants must ship 25 percent of receipts to distributing plants in August. This requirement should be reduced to 15 percent of receipts in recognition of the fact that there is a lesser need for supply plants to supply fluid milk needs in August than during other months of the qualifying period. Class I sales and the utilization of producer milk in Class I in August were lower than in any of the other months of September through December during the entire 1970 through 1976 period.[3] Schools open at or shortly after the end of August; consequently, fluid milk sales do not increase significantly until September.

Likewise, the shipping requirement for December should be 15 percent of receipts rather than the 25 percent of receipts that currently applies during the months of September through November. Although fluid milk sales are relatively high in December, compared to August, fluid milk processing plants operate on a curtailed basis during the holiday season, a period of relatively low sales. As a result, the balancing function of supply plants in disposing of milk is substantial during this period. A lower shipping requirement is appropriate to preclude the possibility of uneconomic shipments of milk during December.

A cooperative association that opposed the use of December as a qualifying month did so for essentially the same reasons that proponents proposed a lower shipping requirement for December than in other months. A witness representing the association testified that the cooperative's city manufacturing plants are usually operated at capacity during the holiday season. Therefore, the cooperative must leave as much milk as possible at country plants for manufacturing.

Decemer is a month that contains periods of both high and low sales. Due to periods of high sales, supply plants should be required to make shipments to processing plants for fluid use. The shipping requirement should be lower than other months, however, for reasons previously stated.

The spokesman for the opposing cooperative stated that the association would have no objection to the proposed pooling requirements if they applied only to plants in the New England states or to supply plants that are currently pooled under the order. The association suggested that higher shipping requirements (such as 50 percent of receipts) be applied to any new plants that might begin supplying the market. Apparently the cooperative is concerned that the proposed pooling standards could result in the pooling of additional supply plants, thereby decreasing the utilization of producer milk to the detriment of dairy farmers who have historically served the market.

There is no evidence that the moderate reduction in shipping requirements from current levels would result in additional plants becoming pooled under the New England order. Prospectively, however, if additional plants should begin supplying the market, they should acquire pool plant status on the same basis as plants that are currently serving the market. There is no basis in the record of this proceeding to provide a different standard for any new plants than those that apply to current pool plants. The pooling requirements for a supply plant as proposed by proponents, and as provided herein, will promote more orderly marketing conditions and encourage the movement of milk to pool distributing plants for fluid use when it is needed most.

A cooperative association excepted to the omission from the findings of any of the testimony by the association's witness to show that pooling requirements for supply plants are generally lower in New England than in other Federal order markets. Such testimony is not relevant to the issues considered specifically for the New England market.

Additional changes are necessary to place other provisions of the order in conformity with the intent of the adopted pooling requirements. The change in the qualifying period for supply plants necessitates a conforming change in provisions that establish the period during which supply plants can attain automatic pool plant status. Supply plants are not required to make qualifying shipments during those months when milk is not needed at distributing plants if they have served the market fluid milk needs during months of relatively short supply. Marketing conditions that establish the need to revise the qualifying months also establish the need to revise the automatic pooling period (from December through June to January through July) to reflect the months when milk normally is not needed at distributing plants. Conforming changes are also made in the "dairy farmer for other markets" provisions since the application of such provisions is related to the relatively short and flush production periods of the year that determine the basis for the qualifying and automatic pooling months.

2(b) *Pool supply plants—System pooling.* The "system pooling" provisions of the order should be revised to discourage uneconomic movements of milk.

The order now provides a handler with the opportunity to pool a supply plant system during the qualifying period. A plant system may be pooled, in lieu of pooling individual plants, by meeting three conditions. First, the handler's written request for continuation of pool supply plant status, which the plant held under his operation in the preceding month, must be received by the market administrator on or before the 16th day of the month. Second, the group of plants, considered as a unit, must meet the shipping requirements established for individual plants during the month. Third, each plant in the group must meet the shipping requirements for pooling during one of the qualifying months.

The pooling provisions provided herein delete the requirement that each plant in a group must meet the shipping percentage for one of the qualifying months. In place of this condition, each plant should ship at least 5 percent of its total receipts of milk from dairy farmers' farms as fluid milk products, other than as diverted milk, to pool distributing plants in one the the qualifying months. Also, a procedure is established to terminate pool plant status if the group of plants does not meet the shipping requirement for any given month. Termination of pool plant status should be limited to the least number of plants that will result in the remaining plants in the group meeting the shipping requirement. If the termination of pool plant status becomes necessary, the handler should be permitted to designate which plants shall continue to have pool plant status for the month.

A proposal to amend the system pooling provisions of the order was made by a proprietary handler serving the market. The proposal would delete the requirement that each plant in a group must pool individually during one of the qualifying months. As proposed, individual plants in a group would not be required to make any shipments to pool distributing plants. However, each plant in the group would have to have been pooled under the handler's operation in three or more months of August through December of the preceding year rather than the previous month as currently provided. At the hearing, proponent modified the proposal to provide that each plant, in order to pool in December, must have shipped fluid milk products to pool distributing plants during two of the preceding 11 months.

A witness representing the Richmond Cooperative Association (which is a member of the Green Mountain Cooperative Federation, Inc.), support-

[3] Official notice is taken of the market Administrator's "Monthly Statistical Report" for October and November 1976.

ed the modified proposal if other proposals considered under issues 3 (a), (b), and (c) were adopted. The cooperative's support was contingent also on a modification of the proposal to provide that all plants in the group would need to demonstrate a clear association with pool distributing plants at least sometime during the previous 12 months. Further, the cooperative's spokesman stated that, if the proposal were adopted, some means should be established to give the market administrator the authority to call upon a handler to ship milk at any time during the qualifying period if the market administrator determines that milk from such plant is needed.

In a post-hearing brief, four other cooperatives affiliated with the Green Mountain Federation supported the above position. In its brief, Yankee Milk also indicated that it had no objection to the proposal if it were modified to deny system pooling to plants not meeting health requirements and to require periodic shipments to the fluid market.

The thrust of proponent's case is that uneconomic movements of milk result when an individual plant in a group is required to meet the shipping percentage during one of the qualifying months. Proponents points out that shipping requirements for individual plants in a group do not result in a change in the total volume of milk that must be shipped to distributing plants from the group. Proponent contends that individual plant requirements (when considering a group of plants) serve no useful purpose and do not result in a benefit to the market.

Proponent operates a system of 5 pool supply plants to furnish the fluid milk needs of its city distributing plants. Three of the supply-plants have substantial manufacturing capacity and are located in Zones 21, 22, and 25. The remaining two, which are receiving operations only, are located closer to Boston in Zones 16 and 20. For the most part, shipments from the two plants closest to the market center would be sufficient to qualify proponent's group of plants for pooling purposes. However, under current provisions, each of the more distant plants is required to meet the shipping requirements during one of the qualifying months.

Milk shipments for pooling purposes from distant plants displace milk that is assembled at the nearer supply plants. The nearer milk, which is then in excess of the distrbuting plants' fluid milk needs, must be directed to other plants for manufacturing. In some cases it is necessary to ship such milk back to the manufacturing supply plant from which qualifying shipments were made.

The record establishes the degree to which shipments were made from proponent's three most distant supply plants during the qualifying months of 1974 through 1976. Shipments were made to supplement the fluid milk needs of the distributing plants but, to a substantial degree, they were unnecessary in that they were made solely for pooling purposes. Although proponent did not document the degree to which backhauls actually took place, it is reasonable to conclude that the potential for such uneconomic movements is substantial. In this connection, a witness representing a cooperative association testified that it was necessary to backhaul milk from Zone 17 supply plant to a Zone 20 manufacturing supply plant when it chose to qualify the latter plant for pooling. Other witnesses also testified that backhauls occur, although actual data were not presented to quantify the extent of such occurrences.

Even if backhauls did not result, shipments from distant plants should not be required when qualifying shipments can be made from plants that are located closer to the consuming centers of the market. Removal of the requirement that each plant in a group meet the shipping percentage for one of the qualifying months will provide proponent, and others in like circumstances, with the opportunity to supply the needs of distributing plants from the most economically located areas.

Cooperative associations, if they so choose, can pool a group of plants to supply the needs of distributing plants on a more economical basis. Under the order, cooperatives can include within a group of plants direct shipments of bulk milk from farmers to pool distributing plants, for which shipments an association is the handler. Direct shipments to distributing plants by a cooperative in its capacity as a handler demonstrate active performance by the association in meeting the fluid milk requirements of the market. Shipments from individual plants in a group should not be necessary for pooling purposes if the over-all performance of the group meets the pooling criteria that, in conjunction with other provisions, assure an adequate supply of milk to meet market fluid milk needs.

Although it is neither necessary nor economical to require that each individual plant in a group meet the pooling requirements in one month, some shipments are necessary. If shipments were not required, individual plants could be pooled in a group indefinitely without any assurance that the plants are in fact maintaining the necessary health approval for the fluid market. The order presently does not require as a condition for pooling that a plant be approved by some health authority. This has not been necessary since all pool plants must supply the fluid market in some manner and thus necessarily must maintain the health approval required by local jurisdictions. However, if a supply plant in a handler's system were not required to make any shipments, there would be no incentive, particularly in the case of a manufacturing plant, to maintain health approval for the fluid market.

The required shipment of milk to pool distributing plants is the only manner available on the basis of this record to demonstrate that a plant is actually eligible to furnish a portion of the fluid milk needs of the market.

Proponent's modification would require that each plant in a group ship milk to distributing plants during any two months of January through November in order to pool in December. The amount that would have to be shipped, however, was not specified.

Under the modification, any shipment by a plant (even a few gallons) would qualify it for pooling purposes. This minimum or "token" shipment would not provide sufficient performance by the plant to demonstrate its ability to serve the fluid market. Further, an unspecified shipping requirement would result in differing minimum degrees of performance among handlers. A specified shipping requirement should be applied that will result in equal treatment among handlers. Accordingly, the order should provide for a specified percentage of receipts that results in more than a "token" shipment but does not result in the uneconomic backhaul of substantial quantities of milk. The demonstration of an ability to perform should be made during those months when milk is most likely to be needed to meet fluid milk needs (i.e., the qualifying months) rather than during months when additional shipments are not necessary to meet the demand for fluid milk.

It is concluded that each plant should be required to ship at least 5 percent of its receipts to pool distributing plants during one of the months of August through December in order to pool in a group of plants. Such shipping requirement is reasonable in that it encourages neither token shipments nor uneconomic movements of milk.

The requirement that each plant in a group must have been pooled under the handler's operation in the preceding month should be continued rather than the proposed three or more months of the August through December period of the previous year. No evidence was presented from which it might be concluded that the adoption of a more restrictive pooling requirement would be appropriate. Also, there is no basis in the record for a provision to "call" on milk from supply plants. The provisions provided herein for pooling a group of plants will not result in any reduction from

the total volume of milk that would otherwise be shipped by individual supply plants to fluid milk plants.

3(a). *Assignment provisions—Assignment of handlers' receipts to utilization.* The current order sequence for assigning receipts of milk from producers and plants to a distributing plant's Class I utilization should be continued. Under this procedure, milk received at a pool distributing plant from producers is assigned to Class I, except for a limited assignment of such milk to Class II, prior to the assignment of any receipts from pool plants. Any Class I use remaining after the assignment of producer receipts is assigned to receipts of fluid milk from pool plants in sequence, beginning with the plant in the zone nearest to Boston.

These provisions became effective on April 1, 1976, when the Boston Regional and Connecticut orders were merged to form the current New England order. Previously, supply plant milk under the Boston Regional order was assigned to a handler's Class I utilization at his distributing plant before the assignment of producer milk, if the milk had been received from a plant operated by another handler. Milk that was received from the handler's own supply plant was assisgned to any remaining Class I use after the assignment of producer receipts to Class I milk.

The reasons for the change in the sequence in which these two sources of milk are assigned to Class I use were set forth in the Assistant Secretary's final decision issued on January 26, 1976 (41 FR 4456). Official notice is taken of such decision.

Under current order provisions, receipts from a supply plant at a distributing plant are assigned, with limited exception, to Class II use if the volume of producer receipts exceeds the volume of Class I use at the distributing plant. This results in such shipments being priced as Class II milk at the supply plant. As previously stated, Class II location adjustments do not reflect the cost of transporting milk in bulk form from outlying areas to the consuming centers of the market. Consequently, either the distributing plant or the supply plant operator must absorb that portion of the transportation cost that is not reflected in Class II location adjustments.

Four cooperative associations contend that milk from supply plants should not be assigned to a distributing plant's Class II use during the months when supply plants must make shipments to distributing plants to attain pool plant status. They proposed that during August through December milk that is received at a pool distributing plant from a supply plant be assigned to Class I use prior to the assignment of milk that is received at the distributing plant directly from producers. In this way, the application of Class I location adjustments would cover the cost of transporting bulk milk from the supply plant to the distributing plant for pooling purposes. The proposal was supported by three additional cooperative associations, while one cooperative opposed it.

A proprietary handler who operates distributing plants in the nearby plant zone and 5 supply plants also supported the proposal, but for all months of the year rather than just during the qualifying months. The handler testified that his cost for Class II milk received from the supply plants is greater than that of other plant operators who rely on only direct-shipped milk. He testified that a change in the assignment sequence would make the Class II "set-aside" provisions unnecessary (discussed under issue 3(b) and would permit the class assignment of interplant transfers to be known in advance. The handler contended that current assignment provisions can result in the inconvenience of billing adjustments on some interhandler sales because the classification of such sales is not know until after audit by the market administrator. He testified that adoption of the proposed assignment sequence would reduce the present incentive for distributing plants to receive direct-shipped milk. Apparently, this is the chief objective of proponents.

The operator of a supply plant normally will not find it advantageous to ship milk to distributing plants in the consuming centers of the market unless he can recover the transportation cost on all of the milk involved. It is to his benefit, therefore, to seek a buyer who has esstentially only Class I uses. Often, however, the buyer is interested in obtaining milk for other than Class I use. This stems from the fact that "soft" products, such as cottage cheese and yogurt, are commonoy processed in conjunction with fluid milk operations.

Handlers in the New England market, including the proprietary handler support the proposal, have Class II operations associated with city distributing plants. To the extent that they require milk for Class II use, they should expect to bear the cost of moving it to the city, unless they can attract on a direct-shipped basis individual producers whose alternative markets are less attractive. The record establishes that, to a large degree, city plants have been able to obtain supplies of milk for all uses on a direct-shipped basis from producers. In such instances, the individual producers pay the cost of moving the milk to the market. As previously stated in this decision, this market practice should not be discouraged.

A reversal of the assignment priority as requested by cooperative associations and the proprietary handler would lower the total pool value of milk by shifting the pricing point for quantities of Class I milk from the city plant to the country supply plant. In effect, the pool value of milk would be used to subsidize transportation costs on milk moved from supply plants to distributing plants for other than Class I use. This would lower the total payment for milk to all producers in the market. As stated decisively in the Assistant Secretary's decision of January 26, 1976 (41 FR 4456), pool funds should not be used to encourage the shipment of supply plant milk to city plants for other than Class I use.

The fact that supply plants must make shipments to distributing plants to attain pool status does not provide a sound basis for preferential assignment of supply plant receipts to a distributing plant's Class I use. It should be recognized that by pooling their supply plants, cooperative associations and handlers derive a substantial benefit in that they are able to return to their producers a share of the total Class I sales in the market on a year round basis through a relatively limited association of milk supplies with the fluid market. Moreover, if the required shipments from supply plants to distributing plants are not needed for Class I use, as evidenced by their assignment to Class II, adjustments should be made in the shipping standards rather than in the assignment provisions. In this regard, the pooling requirements for supply plants provided herein are designed to eliminate the unnecessary and uneconomic shipments that have been made solely for pooling purposes. These pooling provisions coordinate more effectively the shipping requirements with the fluid milk needs of the market.

The fact that billing adjustments on inter-handler sales have occurred does not provide a compelling basis to adopt the proposal. Accordingly, for the foregoing reasons, the proposal is denied.

Cooperative associations and a proprietary handler excepted to the continuation of the current order procedure for assigning a distributing plant's Class I use to receipts of milk from producers and pool plants. The exceptors urge a reconsideration of the issue based on evidence contained in the record of the proceeding. Exceptors disagree with the findings of the recommended decision which state that the practice of supplying the market on a direct-shipped basis should not be discouraged. They contend that there are inequities among handlers and among producers as a result of the current assignment provisions. Further, they contend that more orderly marketing conditions would result by assigning Class I use to supply plant receipts prior to the

assignment of direct-shipped milk. Also, they contend that current assignment provisions that result in the assignment of Class II use to receipts from supply plants are inconsistent with shipping requirements for supply plants.

As a minimum corrective action to assure equitable treatment of all supplies of milk to distributing plants, exceptors state that the assignment provisions should be reversed to provide a Class I assignment priority to supply plant receipts during those months when supply plants are required to make qualifying shipments to distributing plants. One exceptor requested a modification that would assign Class I use to country plant shipments at least to the extent of required shipments for a system of plants during the qualifying months.

The views expressed by exceptors, which generally are concerned with equities between direct-shipped and supply plant receipts, are contained in the record of the proceeding and were fully considered in the recommended decision under this and other issues open for consideration (i.e., issues 1, 3(b), 3(c), 4(a), and 4(b)). In addition, the Assistant Secretary's final decision of January 26, 1976 (of which official notice was taken in the recommended decision) dealt with this issue in adopting the current assignment provisions of the order. Exceptors have not provided a sufficient basis to either reverse the assignment sequence or to modify such provisions in view of the principles established in the 1976 decision, which have been carried through in this decision under several issues.

3(b). *Assignment provisions—Class II set-aside.* The "set-aside" for butterfat should be increased to 25 percent of butterfat in Class I route disposition or the remaining Class II butterfat, whichever is less. The rate currently provided in the order should be retained for skim milk.

Under current order provisions, a limited quantity of producer receipts at a pool distributing plant (which plant also receives bulk fluid milk products from pool plants located outside the nearby plant zone) are assigned to Class II use prior to assigning the remainder of such receipts to Class I use. This results in the assignment of an equivalent amount of bulk receipts from pool plants to Class I use. The quantity of receipts set aside for Class II use is limited to 6 percent of the distributing plant's Class I route disposition or the remaining Class II use, whichever is less. The 6 percent maximum set-aside applies to both butterfat and skim milk.

It is not reasonable to expect a distributing plant to maintain 100 percent Class I utilization of its receipts. Even a plant that is exclusively engaged in the processing of fluid milk products will have certain unavoidable Class II uses. Most plants will experience some Class II uses resulting from standardization (modification of the butterfat content in milk received from producers in preparation of such milk for bottling uses), shrinkage (plant losses in the processing and packaging of milk), and route returns of fluid milk products.

As indicated in the previous issue, a handler operating a city distributing plant who receives milk from supply plants will incur a greater cost for milk in Class II uses than a distributing plant operator who receives all direct-shipped milk. To the extent that milk is required for substantial Class II uses, the handler receiving milk from a supply plant must expect to bear the cost of moving it to the city. However, to the extent that Class II uses are unavoidably associated with the operation of a distributing plant primarily engaged in the processing of fluid milk products, the handler should be afforded cost comparability with other handlers who receive only direct-shipped milk. It was for this reason that the New England order was amended to provide for a set-aside effective April 1, 1976. A limited assignment of producer receipts to Class II use provides for an equivalent assignment of supply plant receipts to Class I use, thereby providing cost comparability under the order among handlers, whether they receive direct-shipped or supply plant milk, on that portion of Class II use that cannot be avoided in the operation of a distributing plant.

Four cooperative associations proposed that instead of applying the rate of set-aside uniformly to skim milk and butterfat different rates be applied to each component in determining the maximum amount of producer receipts that should be initially assigned to Class II use. Also, they proposed that the rates be varied seasonally. Specifically, the proposed set-aside rates for January through March were 6 percent of skim milk and 10 percent of butterfat in the Class I route disposition of a distributing plant. During April through July they proposed 10 percent of skim milk and 14 percent of butterfat.

At the hearing, cooperatives revised their proposal in two respects. First, the period January through March was changed to August through March. Second, they proposed that the set-aside be applied at distributing plants receiving bulk fluid milk products from pool plants located inside the nearby plant zone as well as at plants receiving such products from plants outside the nearby plant zone. Two cooperatives supported the proposal, while one cooperative opposed it.

Proponents testified that a greater set-aside rate is necessary for butterfat because the butterfat content of producer milk exceeds the butterfat content of milk in Class I route disposition. Consequently, a portion of the butterfat in producer milk received by distributing plants is in excess of the butterfat needed for Class I use. During October 1975 through September 1976, the average butterfat content of Class I products ranged on a monthly basis from a low of 2.95 percent to a high of 3.12 percent, compared to the butterfat test of producer milk which ranged monthly from 3.56 percent to 3.77 percent during the same period. For 1976, the butterfat content of Class I disposition averaged 2.98 percent while the butterfat test of producer milk averaged 3.68 percent.

The spokesmen for proponents also testified that larger set-aside rates are necessary for both butterfat and skim milk during the months of relatively greater milk production, i.e., April through July. They testified that during this period a greater proportion of supply plant receipts should be assigned to Class I use due to the intensified balancing function performed by supply plants. Proponents claimed that distributing plants send greater volumes of milk to manufacturing plants for surplus disposal, particularly on weekends, while supply plants ship milk to distributing plants as needed during the week.

A proprietary handler proposed greater set-aside rates than the cooperative associations. The handler proposed that the set-aside for skim milk be set at 10 percent of Class I disposition during August through March and 15 percent during April through July. The proposed rate for butterfat was 50 percent of butterfat in Class I route disposition throughout the year.

Information pertinent to consideration of this issue is contained in an exhibit prepared by the market administrator. For April and September 1976, the exhibit indicates the number of distributing plants at which the set-aside provisions applied, the volume of Class II butterfat and skim milk assigned at such plants to bulk receipts from supply plants, and the minimum set-aside percentages that would have been necessary to preclude any assignment of Class II milk at such distributing plants to receipts from supply plants.

Data contained in the exhibit do not support the claim that it is necessary to vary set-aside rates seasonally to account for greater milk production. In fact, both the volumes of Class II butterfat and skim milk assigned to supply plants, and the minimum set-aside rates that would have been necessary to preclude Class II assignments, were less in April than in September. Therefore, the proposals to es-

tablish higher rates for April through July than August through March are denied.

The exhibit also shows that, with respect to butterfat, the current 6 percent set-aside percentage was high enough to preclude Class II assignment to supply plant receipts at only one distributing plant in each of the months of April and September. An average of these computed percentages for 19 distributing plants in April was almost 26 percent, while the average for 23 plants in September was 28 percent.

With respect to skim milk, the current 6 percent rate was sufficient to preclude Class II assignment at 13 distributing plants in April and 10 plants in September. The average of the computed skim milk set-aside rates was 6.37 percent and 8.96 percent for April and September, respectively.

This information does not precisely identify the set-aside rates that should be applied. It is not intended that these provisions should completely preclude Class II assignments to receipts from supply plants. Rather, they are intended to preclude Class II assignments that result from unavoidable Class II uses that are reasonably associated with the operation of a fluid milk plant. However, the fact that the 6 percent set-aside covered all Class II butterfat at ony one distributing plant during each of the months indicates that an increase is necessary with respect to butterfat to cover unavoidable Class II uses that are associated with the operation of a distribution plant.

A proprietary handler presented data concerning the operation of one of his distributing plants (which accounted for most of the Class II use in the market that was assigned to supply plants during April and September) to support the larger set-aside rates that he proposed. The handler identified five categories of Class II use at the plant and expressed such uses as a percentage of Class I disposition of butterfat and skim milk for November 1975, and May and September 1976. For the most part, however, the data are not restricted to unavoidable Class II uses that result from Class I operations. Actually, the handler wishes to cover all Class II uses at the plant to prevent assignment of such uses to receipts from his five supply plants. The distributing plant has extensive Class II use in addition to Class I use.

The handler testified that three of the Class II uses identified occur at practically every distributing plant, although in varying degrees. Such uses are: (1) Shrinkage and dumpage; (2) disposition of route returns and animal feed, and; (3) fluid milk products used in cream and soured cream. This last category, by far, accounted for the greatest proportion of Class II use for both butterfat and skim milk at the plant. However, these uses are not unavoidable Class II uses that can reasonably be expected in the operation of a distributing plant that is engaged primarily in the processing of fluid milk products. The plant produces substantial volumes of cream and receives cream from the handler's supply plants.

Cream products, and other products identified by the handler, do not represent unavoidable Class II uses simply because their production is related to the same types of equipment utilized at distributing plants, as suggested by the handler. Only that portion of cream, or excess butterfat, that results from the need to standardize producer milk to attain the desired butterfat content of a full line of Class I products should be considered as an unavoidable Class II use.

As pointed out by cooperative associations, and as supported by marketwide data, the butterfat content of producer milk exceeds the butterfat content of fluid milk (Class I) products. A handler receiving direct-shipped milk of average test from producers in sufficient quantities to meet Class I needs will also receive an excess of butterfat. A comparison of the average test of producer milk during 1976 (3.68 percent butterfat) with the average test of Class I products (2.98 percent butterfat) indicates that excess butterfat received would represent about 23.5 percent of the butterfat needed for Class I sales in the market.

In addition to unavoidable Class II use associated with the difference in the butterfat content of producer milk and Class I sales, some additional tolerance is necessary to account for route returns and shrinkage. The first two categories of Class II uses indicated previously for the handler's plant ranged between 1.9 percent and 3.8 percent of the plant's Class I disposition of butterfat. However, the amounts are overstated to the extent that Class II products are included in the data. It is determined that an additional 1.5 percent should be included for such unavoidable Class II uses. A total of 25 percent of butterfat in Class I disposition should represent the maximum amount of butterfat in producer receipts that need be set-aside for Class II use.

The set-aside rate for skim milk should not be changed from the current level. Data presented by the proprietary handler indicate that he would need a rate of about 7–8 percent to cover three of the Class II uses identified. However, this includes Class II uses that result from the standardization of cream, a Class II product, and should not be included as an unavoidable Class II use. Consequently, there is no basis from which to conclude that the current 6 percent rate should be revised.

Cooperative associations and a proprietary handler excepted to the continuation of the 6 percent set-aside rate for skim milk and requested that such rate be increased to at least 10 percent of skim milk in Class I route disposition. In addition, exceptors disapprove of the concept of "unavoidable Class II uses" adhered to in the decision. They contend that certain Class II uses, such as cream, soured cream, milk shake mix and yogurt are reasonably associated with the operation of a fluid milk plant.

In terms of the packaging equipment that is needed for the previously mentioned Class II uses, it may well be reasonable from a handler viewpont to have such uses at a distributing plant. However, pool funds should not be used to subsidize the hauling of milk to distributing plants for such uses, as would be the case if the set-aside rate covered such uses. Any Class II use that is not strictly related to Class I sales must be excluded from the set-aside to prevent the dissipation of pool funds to cover transportation costs. To do otherwise would conflict in an unacceptable way with the findings made under issue 3(a). Record evidence does not support an increase in the skim milk set-aside rate above the level currently provided in the order.

The modification supported by cooperative associations that would apply the set-aside provisions in the case of distributing plants receiving milk from pool plants either inside or outside the nearby plant zone should not be adopted. The modification was proposed to accommodate a special situation involving the pooling of a cooperative association's distributing plant that is located in the nearby plant zone. The cooperative's distributing plant transfers fluid milk products to other distributing plants that do not always receive bulk fluid milk products from plants located outside the nearby plant zone. Consequently, the set-aside provisions do not apply at the receiving distributing plant. This results in a Class II assignment to some of the milk transferred from the cooperative's distributing plant. If the set-aside applied, some of the shipments would be assigned to Class I use, which would aid the cooperative in meeting the requirement that 40 percent of the receipts at a distributing plant must be used in Class I in order to be pooled under the order.

The set-aside provisions are not intended to be the means for pooling a distributing plant under the order. Therefore, the proposal should not be adopted for the reasons advanced by proponent. If the distributing plant is unable to meet the pooling provisions for a distributing plant, such provi-

sions should perhaps be the subject of another hearing.

3(c). *Assignment provisions—Inventory variation.* The order should not be amended to provide for a special set-aside of producer receipts in Class II at a pool distributing plant to acommodate an increase in ending inventory of butterfat and skim milk over beginning inventory.

Under current order provisions, ending inventory of fluid milk products at a plant that receives milk directly from producers or from a cooperative association in its capacity as a handler is classified in Class II. An increase in ending inventory over beginning inventory can result in the assignment of Class II use to receipts from supply plants at a distributing plant that also receives milk directly from producers.

Four cooperative associations proposed that the assignment provisions be amended to prevent such Class II assignment to supply plant receipts that results when ending inventory exceeds beginning inventory. They contend that inventory variation, which depends largely on the quantity of milk packaged at a plant on the last day of the month, is becoming more pronounced with a trend towards fewer bottling days and larger volume distributing plants. They contend further that, for most city plant handlers, ending inventory consists of packaged fluid milk products that are distributed as such in the following month. In their view, supply plant receipts should not be assigned to Class II use as a result of inventory variation of fluid milk products. Their proposal would result in a Class I assignment to supply plant receipts in a volume equivalent to any increase of ending inventory over beginning inventory. Class I assignment to receipts of milk received directly from producers would decrease by a corresponding amount.

Testimony on the record of this proceeding establishes that some distributing plants have substantial Class II uses. Application of the proposal at such a plant would result in a reduction of pool proceeds to cover the cost of moving milk to city plants for other than Class I use. Receipts of direct-shipped milk from producers should not be assigned to Class II use, and supply plant receipts should not be assigned to Class I use, as a result of increasing inventories at a distributing plant that has substantial Class II use. Since the proposal does not provide a basis to distinguish between plants that are primarily engaged in the processing of fluid milk products and other plants, or does not provide a way to limit such assignment to the extent that increasing inventories would be expected at fluid milk plants, it must be denied for the reasons stated in the two preceding issues.

The proposal was submitted in conjunction with the proposal dealing with the Class II set-aside, which was considered under the preceding issue. Other cooperative associations, and a proprietary handler supported the entire proposal, while one cooperative opposed it. However, no witnesses supporting or opposing proponents' proposal testified specifically with respect to the assignment of inventory variation.

As pointed out previously, an increase in ending inventory depends primarily on the quantity of milk processed on the last day of the month. Consequently, Class II use that results due to ending inventories at a distributing plant that is primarily engaged in the processing of fluid milk products can be construed to represent an unavoidable Class II use. As established in the previous issue, a supply plant should not receive a Class II assignment on shipments to a distributing plant for fluid use as a result of Class II uses that cannot reasonably be avoided. However, proponents' proposal would not be limited in application to only those distributing plants that are primarily engaged in the processing of fluid milk products. It would apply to all distributing plants that receive milk directly from dairy farmers and supply plants.

A cooperative association excepted to the denial of a special set-aside of producer receipts to accommodate an increase in ending inventories of butterfat and skim milk over beginning inventories. However, exceptor did not provide cogent reasons for taking exception to the findings and conclusions concerning the proposal. A review of the testimony and evidence concerning the proposal leads to the conclusion that the record does not provide the basis for adopting the proposal.

3(d). *Assignment provisions—Assignment of diverted milk.* A change in order provisions is necessary to clarify the application of assignment provisions to milk which a handler has diverted to another plant. The proposed technical change was made by the Dairy Division and it was not opposed at the hearing.

The order now provides that producer milk which is diverted by a handler, including a cooperative association in its capacity as a handler for milk moved from farms to plants, is priced to the diverting handler at the zone location of the plant to which the milk is diverted. However, for accountability purposes under the order, milk that is diverted by a handler is considered to have been received at the pool plant from which the milk was diverted. The classification of such milk at the diverting plant is determined at the plant of physical receipt in accordance with the rules relating to plant transfers.

In the absence of the clarifying change adopted herein, milk diverted from a city distributing plant to a distant manufacturing plant for Class II use could be assigned to the diverting handler's Class I use while other milk received at the diverting plant from another city distributing plant for Class I could be assigned to Class II use. This could occur because diverted milk is considered to be a direct receipt of producer milk, and as such it is assigned to the diverting plant's Class I use prior to the assignment to utilization of milk received from other plants. In this situation, the assignment of diverted milk to Class I use would result in the assignment of receipts from the city distributing plant to Class II use even though such milk was delivered to the city by producers for Class I use and in fact was used in fluid milk products.

In the circumstances described, the diverting city plant handler would receive a windfall since not all of the milk in Class I use would be priced at the city plant. The milk that was diverted for Class II use would be priced to the diverting handler as Class I milk, but at the location of the distant plant where it was physically received. The Class I price would be 40 cents per hundredweight less than the city plant price if the milk were diverted to a manufacturing plant in the 21st zone. On the other hand, the milk received from the city distributing plant for Class I use would be priced as Class II milk at the city, or 5.8 cents higher than the Class II price at the 21st zone. This would result in a reduction of the handler's pool value of milk (34.2 cents per hundredweight on the quantity diverted) at the expense of producers supplying the market.

This problem could occur in situations where there is insufficient Class II producer milk assigned under §1001.47(b) at the plant of the diverting handler to equal diversions of producer milk by that handler which must be classified as a Class II transfer. The change provided herein would correct the present technical inadequacies of the applicable order provision by reserving sufficient quantities of receipts of milk to cover the classification of diverted milk. Also, it will result in pricing diverted milk in all cases to the diverting handler in accordance with the zone location of the plant of physical receipt, and the specific use-class of the milk.

4(a). *Class II location adjustments—Increase the adjustments.* A proposal to increase Class II location adjustments should be denied.

A proprietary handler proposed that the order Class II price be adjusted for plant location at the same rates that currently apply to Class I and blended prices. The proposal would increase the Class II price at plants located in

zones nearer than the 21st zone (201-210 miles from Boston). In the nearby plant zone (Connecticut, Rhode Island, and Massachusetts, except Berkshire County) the Class II price would be 40 cents higher than at Zone 21 plants and would also be 34.2 cents higher than the Class II price that currently applies at such locations. Class II prices at plants beyond the 21st zone would be decreased by greater amounts than under current provisions. For example, at the 25th zone the Class II price would be 4 cents lower than the Zone 21 price, which would also represent a 3.1-cent reduction from the current order Class II price for Zone 25.

Proponent handler operates a pool distributing plant in Zone 4 (between 31 and 40 miles from Boston) and receives milk directly from dairy farmers. In addition, the handler balances his milk requirements with reciepts from various pool supply plants. Proponent processes mostly fluid milk products (Class I) but also has some Class II use in cream, ice cream and ice cream mix.

Proponent testified that he is disadvantaged relative to other distributing plants that have Class II use but receive only direct-shipped milk. He stated that the disadvantage results because he pays the transportation cost on supply plant receipts assigned to Class II use. He claimed that other processors who receive only direct-shipped milk do not incur a transportation cost for milk in Class II use since producers pay the cost of hauling milk to plants.

Proponent testified that under his proposal all distributing plants would be affected equally for milk in Class II use, whether received on a direct-shipped basis or through supply plants. Additionally, the resulting higher Class II price at plants in the nearby plant zone would discourage the movement of milk to city plants for Class II use. Proponent noted, however, that to the extent that Class II products would continue to be processed at higher price zones, dairy farmers would receive higher blend prices.

A witness representing a cooperative association member of the Green Mountain Cooperative Federation, Inc., testified in opposition to the proposal. The witness, however, agreed with the intent of the proposal, to promote equity in Class II costs between dealers who purchase supply plant milk and those who receive direct-shipped milk. The witness further indicated that some increase was necessary in Class II location adjustments but that application of the entire 40-cent Class I location adjustment to Class II milk in the nearby plant zone would have an adverse affect on manufacturing operations that compete for sales of products in a national market.

The Green Mountain Cooperative Federation, in its post-hearing brief, reiterated the preceding position. In addition, it is the Federation's view that Class II location adjustments should reflect the cost of moving manufactured products to city markets, rather than bulk hauling costs. They further indicated that the proposal, if adopted, would provide a strong incentive to all handlers to avoid having Class II milk priced at nearby plants. Attempts to minimize Class II use at such plants, they conclude, would leave many producers, currently supplying nearby plants without a market.

A proprietary handler who operates two pool distributing plants in the nearby plant zone, with significant Class II uses, opposed the proposal. The handler testified that the proposal would seriously disrupt the present alignment of Class II prices between the New England and New York-New Jersey Federal order markets. Additionally, the handler stated that he would be disadvantaged in selling Class II products in competition with handlers regulated under other orders because the Class II market for certain products (such as butter, cheese, yogurt and frozen yogurt) is national rather than local or even regional in scope.

The proposal would result in a substantial misalignment of Class II prices that would create disorderly marketing conditions in the New England and other Federal order markets. Both sales and procurement practices would be disrupted throughout a large region. Many New England handlers would be virtually eliminated from the Class II market due to an inability to compete with handlers regulated under other Federal order markets that would have a substantial price advantage. In addition, plants located in outlying areas of the milkshed would have an advantage in the Class II market by virtue of the lower prices that would apply at such locations. Distant manufacturing plants could be expected to attempt to receive milk by diversion from New England pool plants to attain advantages in Class II markets with resulting disruptive effects in procurement practices over a wide region. Clearly, the far-reaching ramifications on handles and producers from a price misalignment of the magnitude proposed would not be in the interest or orderly marketing. Therefore, the proposal is denied.

4(b). *Class II location adjustments—Decrease the adjustments.* The announced Class II price should not be adjusted for plant location as provided under current order provisions. Deletion from the order of the schedule of Class II location adjustments will result in the application of the same minimum Class II price at all plants, regardless of their location. The Class II price at plants nearer than the 21st zone will be decreased from current levels while the price at plants beyond the 21st zone will be increased.

Under current provisions, the order Class II price is announced at the 21st zone where no location adjustments apply. The Class II price at plants located in each successive zone (10-mile increments) nearer to Boston is increased by stated amounts. In the nearby plant zone (Connecticut, Rhode Island, and Massachusetts, except Berkshire County) the Class II price is 5.8 cents per hundredweight higher than the Zone 21 price. The Class II price is reduced at plants located in zones beyond 210 miles from Boston. In Zone 25, which included the most distant supply plants serving the market at the time of the hearing, the Class II price is 0.9 cent lower than the Zone 21 price.

Yankee Milk, Inc., which represents a large proportion of the producers supplying the New England market, proposed that Class II location adjustments be eliminated, except for a plus 2-cent adjustment at all plants in the marketing area.

The cooperative association, which supplies the fluid milk needs of a large number of distributing plants, operates three balancing plants in the nearby plant zone that are pooled under the order. The plants have manufacturing facilities, with the principal product being nonfat dry milk which is sold in a national market in competition with products made from milk that is priced at or near the average value of manufacturing grade milk. The cooperative contends that it is competititvely disadvantaged in the sale of nonfat dry milk because its raw product cost is higher than that of processors in other areas of the country. The witness representing the cooperative referred particularly to a manufacturing plant pooled as a reserve processing plant under the Middle Atlantic order (Order 4) that processes substantial quantities of nonfat dry milk. The cooperative's proposed plus 2-cent Class II location adjustment at plants in the marketing area would result in a Class II price at its three plants that is equal to the Order 4 minimum Class II price at the Middle Atlantic reserve processing plant.

The cooperative association contends that the financial losses it incurs in handling the market's reserve milk supply is contributing to a loss of membership in the cooperative. It claims that the interests of orderly marketing can best be served by promoting the growth and development of a single cooperative association that can balance the fluid milk requirements of the entire market in a more efficient manner than currently.

Proponent presented this reasoning with respect to this and to other issues considered at the hearing. Proponent contended that the effect on cooperative unity, strength, effectiveness and efficiency is a significant factor to consider in arriving at a decision on proposed amendments.

Proponent excepted to a somewhat different statement that was made in the recommended decision on the above point on the basis that it was an erroneous characterization of testimony presented at the hearing. In its exceptions proponent stated that the hearing record contains substantial evidence that the effect on cooperative unity, strength, effectiveness and efficiency is but one of the significant factors to consider in arriving at a decision on proposed amendments. Consequently, proponent believes that the statement in the recommended decision to which specific exception is taken should be deleted from the findings.

After reviewing the testimony and evidence concerning this point, it is concluded that exceptor's view can be adopted, and the statement has been revised accordingly.

The proposal was opposed by bargaining and operating producer cooperative associations that represent dairy farmers who supply the New England and New York-New Jersey Federal order markets. Opposing producer views were presented by witnesses representing two federations of cooperative associations (Green Mountain Cooperative Federation and Northeast Dairy Cooperative Federation) as well as individual cooperatives (Eastern Milk Producers, Dairylea Cooperative, and the Richmond Cooperative Association). The proposal also was opposed by a major proprietary handler regulated under the order who operates two distributing plants and five supply plants under the order.

Briefly stated, the preceding interested parties opposed the proposal on the grounds that it would: (1) Have a variable impact on handlers regulated under the order (the Class II price would be increased from current levels at some plant locations and decreased at other locations); (2) result in a misalignment of Class II prices between the New England and New York-New Jersey Federal order markets; (3) reduce the blend price to New England producers; (4) make it relatively more expensive for city plant handlers to receive milk from supply plants for Class II use, thereby further encouraging the receipt of direct-ship milk; and (5) apply indiscriminately to all milk in Class II without regard to different market values for various Class II uses.

Several cooperative associations, either at the hearing or in post-hearing briefs, indicated that the current Class II location adjustments are inadequate to cover the cost of transporting manufactured products, such as nonfat dry milk, to the market from distant supply areas where manufacturing should be done. Consequently, they believe that location adjustments for milk in Class II uses should be increased rather than decreased. A witness representing the opposing proprietary handler testified that a Class II location adjustment that recognizes the cost of shipping cream from country locations to city plants is the minimum adjustment that should be included in the order. Additionally, the handler stated that even if the Class II price is lowered in the marketing area, the minus location adjustments should continue to apply at plants located beyond the 21st zone to encourage manufacturing at distant plants rather than discouraging it by making it more costly in relation to city plants.

Ideally, a market's reserve supply of milk that is in excess of daily and seasonal fluid milk requirements should be manufactured at plants located in close proximity to the distant production areas that serve the population centers of a market. The New England market, however, is structured so that substantial manufacturing capacity is maintained in close proximity to the consuming centers of the market. As indicated, the largest cooperative association serving the market operates three manufacturing plants in the nearby plant zone that are pooled under the order. Relative to the basic Class II price, the application of a plus 5.8-cent Class II location adjustment at such plants increases the association's cost of handling reserve milk that must be disposed of in connection with balancing the fluid milk needs of distributing plants.

While the Class II location adjustments should be eliminated, this should not be done for the single purpose of promoting the growth of the proponent cooperative association, as was suggested at the hearing. There is no basis to conclude from the record evidence that the existence of only one cooperative association in the New England market would be in the public interest or that more orderly marketing conditions automatically would result, in contrast to current conditions where there are now several cooperatives marketing milk in the New England market. Instead, it is in the interest of orderly marketing to promote the growth and development of cooperative associations in general since such organizations provide a means by which individual dairy farmers, acting collectively, can improve the conditions under which they market their milk.

A review of the development of the present Class II location adjustments in the light of current marketing practices and conditions clearly indicates that such adjustments are outmoded in terms of current marketing conditions and should be eliminated entirely.[4] The current adjustments for each zone are identical to those contained in the order regulating the marketing of milk in the Massachusetts-Rhode Island-New Hampshire marketing area in 1967. However, the adjustments for country plants in zones 5 (41 to 50 miles) through 41 (401 miles and over) are identical to those implemented in the Boston order in 1949. At that time the adjustment for each zone beyond 40 miles from Boston reflected the difference between the transportation cost from each zone to Boston and the transportation cost from the 201-210 mile zone to Boston. Transportation costs were based on rail tariff charges for shipping 40 percent cream in 40-quart cans and nonfat dry milk. Order provisions also provided for automatic changes in country plant zone adjustments based on published increases or decreases of rail tariffs for transportating cream in 40-quart cans in carlots of 100-199 cans.

For plants located within 40 miles of Boston, the Class II adjustment in 1949 was plus 38.1 cents per hundredweight, which reflected the cost of shipping whole milk to the city from the 201-210 mile zone by tank car. Provision for automatic changes in the location adjustment based on rail tariffs for transportation of milk in carlots in tank cars also was provided. The 38.1 cents was reduced to 5.8 cents in the Greater Boston order in 1959 to reflect the cost of hauling cream from the 21st zone to Boston. The 5.8-cent adjustment already had been applied at city plants of the various secondary milk markets in New England for the same purpose.

A rezoning of country plants under the Greater Boston order on the basis of highway miles rather than rail mileage was effective in 1957 as the reliance on railway service to move milk had declined markedly. However, no change was made in the Class II location adjustments since it was determined that the effect of the revised basis of zoning on handler costs or producer returns would be inconsequential.

The current Class II location adjustments were intended to accommodate marketing practices and conditions that generally no longer exist. As indicated throughout the record of the current proceeding, the adoption of technological advances in production,

[4] Official notice is taken of final decisions issued December 15, 1948 (13 FR 8156); March 8, 1954 (19 FR 1384); December 5, 1956 (21 FR 9767); June 18, 1959 (24 FR 5152); and October 13, 1967 (32 FR 14502) which relate to the development of the Class II location adjustments.

processing and distribution and improved transportation systems have reshaped the several former separate fluid milk markets into one large regional milk marketing area. The many country supply plants that were once necessary to assemble milk for rail shipment to city plants have been closed as milk from larger bulk tank dairy farms in an expanded production area is now direct-shipped by tank trucks to fluid milk plants. Cream shipments from country plants to distributing plants, which were once substantial, are now an insignificant proportion of total receipts in the New England market. As indicated in a previous issue, the direct shipment of average test producer milk results in an excess of butterfat at fluid milk plants. It is no longer necessary, or appropriate, to adjust Class II values to reflect the cost of transporting cream to different locations. It is also no longer appropriate to adjust Class II prices to reflect nonfat dry milk shipping costs to different locations. The market for nonfat dry milk, as well as other manufactured dairy products, is national in scope in contrast to the more local market characteristics that prevailed when railway shipping costs for nonfat dry milk were recognized as a component of Class II location adjustments under the order.

The New England order Class II price is the basic formula price for the month (the average price of manufacturing grade milk in Minnesota and Wisconsin), subject to seasonal adjustments.

The seasonal adjustments result in Class II prices that are below the Minnesota-Wisconsin price during March through June and above the Minnesota-Wisconsin price during the remaining months. The seasonal adjustments, when weighted by the volume of milk in Class II uses, are intended to result in a yearly average Class II price for the New England market that approximates the yearly average Minnesota-Wisconsin price.

The New York-New Jersey and Middle Atlantic orders also utilize the Minnesota-Wisconsin price, with seasonal adjustments similar to those in the New England order as the Class II price. In virtually all other Federal order markets the surplus class price is the Minnesota-Wisconsin price without seasonal adjustment. This results in general price comparability throughout the Federal order system for milk that is in excess of fluid milk requirements. Such price comparability is essential because products such as butter, nonfat dry milk and cheese that are manufactured from Federal order producer milk are sold in a market that is national in scope. Such products compete with identical products made from manufacturing grade milk which has essentially the same market value at all locations. This is because milk can be converted in to storable, concentrated dairy products that can be transported substantial distances at a low cost relative to raw milk, which is both bulky and perishable. Consequently, the value of fluid grade milk that is utilized in such products is no different than the value of manufacturing grade milk that is used in identical products. The Minnesota-Wisconsin price is an average of prices paid for manufacturing grade milk by plants that manufacture butter, nonfat dry milk and cheese. The use of such price in the Federal order system as the surplus class price achieves the necessary price comparability throughout most of the nation for milk used in manufactured products.

Producers should not be compensated or penalized for shipping milk to specific locations for Class II use through the application of location adjustments. The plus 5.8-cent location adjustment in the nearby plant zone compensated producers to some minor extent for shipping milk to city plants for Class II use. However, this places proponent cooperative association at a competitive disadvantage in disposing of nonfat dry milk in a national market relative to other plants in the market and throughtout the country. On the other hand, handlers operating distant plants where minus adjustments apply, have a competitive advantage over the proponent cooperative and other plants in the county. Also, producers delivering to such plants do not receive a value for milk in Class II uses that is commensurate with the value of manufacturing grade milk.

For the foregoing reasons, Class II location adjustment in the New England market should be eliminated. No recogntion should be given to proponent's objective to provide a Class II price at its manufacturing plants that equals the the Class II price at a pool plant under Order 4. Under Order 4, the average Class II price is 2 cents per hundredweight over the Minnesota-Wisconsin price. There is no evidence in the record of this hearing that proponent competes exclusively with the Order 4 pool plant in the disposition of nonfat dry milk. To the contrary, the evidence is that the market for such product is national in scope. Accordingly, the national market considerations, previously indicated, that require price comparability in surplus pricing are overriding in this matter.

Elimination of Class II location adjustments will alter the Class II price alignment between the New England and New York-New Jersey Federal order markets. At some locations, the difference between the order prices will narrow while at others it will increase. For this reason, certain producer associations indicated that any consideration of Class II location adjustments should involve both the New England and New York-New Jersey orders.

The existence of Class II location adjustments in Order 2 does not provide a compelling basis to continue to provide for Class II location adjustments in the New England order that are outmoded under current marketing conditions. Elimination of such adjustments is essential in view of the need to provide surplus price comparability among Federal order markets in general.

Elimination of the Class II location adjustments will result in a price decrease at a plants nearer than the 21st zone and a price increase at plants beyond the 21st zone. In addition, such action will result in a very slight reduction of the blend price because the lower Class II price at plants nearer than the 21st zone will more than offset the higher price at plants beyond the 21st zone. However, the reduction will be inconsequential and, thus, should have no impact on the ability of the market to secure an adequate supply of milk.

Opponents of any change in the Class II location adjustments argued that proponent's proposal would lower the Class II price at city plants for all Class II milk without recognizing that milk for certain Class II uses has a greater market value than for other uses. To the extent that milk has a greater value in certain manufacturing uses than in others, an intermediate-price class might need to be considered for the order. However, this was not proposed and a change of this extent could not be adopted on the basis of the evidence in this record. In any case, location adjustments should not be used as a means of reflecting in the order prices an additional value of milk that derives from some basis other than the location at which the milk is received.

The deletion of Class II location adjustments requires several conforming changes which are included in the provision relating to: class prices; plant location adjustments; computation of value of fluid milk products at class prices; payments to producers; and payments to cooperative associations.

Exceptions to the deletion of Class II location adjustments were filed by cooperative associations and a proprietary handler. Among other things, exceptors contend that the recommended action goes beyond the scope of the hearing notice and that interested parties did not have an opportunity to be heard on the issue.

In this regard, the notice of hearing published in the FEDERAL REGISTER contained two proposals concerning Class II location adjustments. One

proposal would have increased such adjustments substantially while the other proposal would have eliminated such adjustments at all locations outside the marketing area, while a plus 2-cent adjustment would have applied within the marketing area.

Within the framework of these proposals, interested parties had ample opportunity to present testimony and evidence with respect to appropriate Class II location adjustments in New England. In fact, substantial testimony by various interested parties was presented at the hearing.

Testimony of the cooperative association that proposed the elimination of Class II location adjustments, except for a plus 2-cent adjustment at plants in the marketing area, established the basis for the recommended action. Proponent, however, was unable to establish the need for the plus 2-cent location adjustment. Nevertheless, proponent fully supported the recommended action for reasons specified in the findings and conclusions.

Other exceptors stated that the recommended action, in effect, was based on past findings and conclusions because official notice was taken of five prior decisions.

Exceptors stated that official notice of prior decisions cannot serve as evidence in the proceeding and that past actions do not establish that Class II location adjustments are outmoded in terms of current marketing conditions. In effect, they contended that there is no record evidence to justify the recommended action or that any disorderly marketing conditions are resulting from Class II location adjustments.

Contrary to exceptors' views, the decision is not based on past actions. Official notice of prior decisions is necessary and appropriate to provide the background material to demonstrate that the record of this proceeding established that marketing conditions today are substantially different from those on which the adjustments were based initially.

Exceptors also stated that the recommended action will result in a competitive advantage to the proponent cooperative. The record does not indicate this. The record does establish, however, that a continuation of Class II location adjustments would place proponent cooperative at a competitive disadvantage in disposing of milk that is in excess of the market's fluid needs. The application of a Class II price at proponent's manufacturing plants that is above its use value places an unwarranted burden on the association in balancing the fluid needs of a large proportion of the market.

Other exceptions stated that a decision to delete Class II location adjustments on the basis of over-riding national market considerations predetermines the issue with respect to current adjustments to Class II prices in the New York-New Jersey and Middle Atlantic Federal order markets. This is not the case. Any prospective hearing or decision concerned with this issue in other markets must be based on the record of such a hearing.

Other exceptions requested that the hearing be reopened to consider additional testimony on the issue. Also, one exceptor requested that the elimination of Class II location adjustments be denied until a three-class pricing system can be considered. Exceptors provided no valid reasons to either reopen the hearing or delay the issuance of a decision until a hearing on another issue can be held.

Other exceptions reiterated positions taken at the hearing and, as such, they were fully considered in the recommended decision.

5. *Seasonal incentive plans.* No change should be made in the order's seasonal plan for paying producers on the basis of this record.

Under the current "Louisville" seasonal payment plan money is withheld from payment to producers supplying the market during the relatively high production months (20 cents per hundred-weight in March, 30 cents in April and 40 cents during May and June). Funds thus withheld are returned to producers supplying the market during the months of relatively lower production. Twenty-five percent of funds withheld are returned in August, 30 percent in September and October, and remaining funds plus interest are returned in November. The current New England order seasonal payment plan, which is identical to the seasonal payment plan in the adjacent New York-New Jersey order, is intended to encourage level milk production throughout the year.

Yankee Milk proposed that a base-excess plan for paying producers be implemented in place of the current seasonal payment plan to encourage a more even pattern of production throughout the year. The proposal contained detailed provisions to implement the payment plan including definitions of base and excess milk, procedures for computing bases for each producer, establishment of base percentages for producers who either have no base or have relinquished their base, and various base rules. Briefly stated, a daily average base would be computed for each producer on the basis of deliveries to the market during September through November. A daily average base thus computed would be used in making payments to each producer during the following calendar year. For deliveries up to his established base, a producer would receive the higher base price reflecting the marketwide utilization of fluid milk. For deliveries in excess of his daily average base, each producer would receive a lower, excess (Class II) price.

Proponent contended that the proposed base-excess plan would create greater producer awareness of a seasonal incentive program, than at present, because each producer would have a base reflecting his deliveries. In proponent's view the consequences of over-base production (payment at the Class II price) would have a greater individual impact on producers than the current plan. Proponent testified that the proposed plan would provide the best incentive to those producers with the greatest seasonal swing in production to level their production. In addition, proponent stated that the proposal would improve producer cash flow in the spring months (the blend price would not be reduced as under the current plan) and that returns to producers would automatically be adjusted for inflation (current "take-out" and "pay-back" rates represent a smaller proportion of blend prices than when initially established). Also, proponent testified that an objectionable feature of the present plan would be eliminated with a base-excess plan. Presently, producers who receive a higher blend during the "pay-back" months are not necessarily the same producers who supplied the market during the "take-out" months. Proponent anticipates that under a base-excess plan participants would be primarily base holders. Overall, proponent contends that base-excess plans have a better record in encouraging even production throughout the year under Federal order markets than Louisville plans.

Four cooperative associations (Cabot, Northern Farms, Richmond and St. Albans) opposed the base-excess plan and proposed, instead, a modification of the current plan. The cooperatives proposed that a percentage of the Zone 21 blend price be withheld from payment to producers during the flush months of production rather than the current, static rates specified in the order. They indicated that amounts withheld currently do not provide the same incentive for even production as they did when established in 1972, since they now represent a much smaller proportion of the blend price than in 1972. Proponents pointed out that the June 40-cents "take-out" represented 6.9 percent of the blend price in 1972 but only 3.4 percent of the blend price in 1976.

Proponents proposed "take-out" rates, as a percentage of the Zone 21 blend price, are: March, 4 percent; April, 6 percent; and May and June, 8 percent. Application of such percentages would have about doubled the amount per hundredweight actually

withheld during March through June 1976. Also, if the proposal had been in effect, the amount returned to producers in the blend price during August through November would have been about twice as much as the amounts returned to producers under the current seasonal plan. In 1976, the seasonal payment funds returned to producers amounted to 36 cents per hundredweight in August, 45 cents in September, 43.8 cents in October, and 27 cents in November. Proponents concede that a doubling of the "pay-back" amounts would increase substantially the disparity between Order 1 and Order 2 blend prices over a wide production area that supplies both Federal order markets.

In a post-hearing brief, proponents of changes in the Louisville plan stated that their proposal is questionable because it would intensify the diffenence between Order 1 and Order 2 blend prices. Nevertheless, they contend that if more seasonal incentive is needed, their proposal is preferable to the proposed base-excess plan.

In addition to opposition from Yankee Milk, the proposed revision of the Louisville plan was opposed by other cooperative associations (Dairylea, Eastern, National Farmers Organization, and Washington and Rensselaer Counties Producers Cooperative Association). These latter cooperative associations also opposed the base-excess payment plan.

Several cooperative associations contended that consideration of any change in the current Order 1 seasonal payment plan must be conducted on a joint basis with Order 2. Their spokesmen stated that the substantial degree to which the two milksheds overlap requires identical seasonal payment plans, as is currently the case.

In addition to the preceding view, cooperative associations opposed the base-excess plan on the grounds that it is generally not understood by producers supplying the market. They indicated that the proposal is premature in that the necessary educational meetings have not been conducted to fully inform dairy farmers on the workings of such a plan. One cooperative also took the position that the proposed base-excess plan would restrict the entry of producers to the market, thereby discouraging otherwise desirable intermarket supply adjustments in response to price differences. The cooperative also contended that the plan would discourage producers from expanding their operations, thereby benefitting established producers at the expense of new producers and deterring the development of more efficient dairy farms. Also, the association contended that base-excess plans have a greater tendency than Louisville plans to increase fall production, which would result in an unneeded increase in annual milk production and lower blend prices.

A proprietary handler supported the concept of striving to attain an even pattern of production throughout the year. A witness representing the handler stated, however, that it would take from 9 months to a year to adjust the company's computers to accommodate a change to a base-excess plan, with substantial initial costs and subsequent maintenance costs to the firm. The witness indicated that, in view of these substantial costs, the base-excess plan should be adopted only if there are definite and persuasive reasons for concluding that it would result in a substantially better seasonal pattern of production than the present (or proposed) Louisville plan.

Both Louisville plans and base-excess plans provide incentives to attain a desired even pattern of production. Each is specifically authorized by the Agricultural Marketing Agreement Act. However, there is no conclusive evidence in the record of this proceeding from which to conclude that one plan would be more effective than the other in attaining the desired result. In the final analysis, the question of which seasonal plan should be used must be decided largely on the basis of the desires of the majority of the producers affected. It is evident from the record that neither the proposed base-excess plan nor the proposal to revise the present "Louisville" plan is favored by the majority of producers supplying the market.

It may well be appropriate to consider the issue is seasonal pricing plans in Order 1 on a joint basis with Order 2 as suggested by various cooperative associations if it is necessary to attain a more even pattern of production. A large proportion of the New England supply area is also a supply area for the New York-New Jersey market. A substantial change in the blend price relationship in a common production area could create producer dissatisfaction and would not be warranted unless there are disorderly marketing conditions in the New England market resulting from severe seasonal production patterns.

In this regard, the record of the proceeding does not establish the existence of disorderly marketing conditions in New England as a result of current production variations. There is no shortage of milk for fluid use during the months of relatively low production, and there is no surplus of production beyond the capacity of the market's plant facilities during the months of relatively high production. In fact, the record establishes that the seasonal production pattern has improved since 1972. The range in production from the high month of production during the "take-out" period to the low month of production during the "pay-back" period was 19.4 percentage points in 1972, 23.5 percentage points in 1973, 19.4 percentage points in 1974, 16.0 percentage points in 1975, and 17.7 percentage points in 1976.

For the reasons stated herein, it is concluded that the current New England seasonal payment plan should not be revised. The proposals to implement a base-excess plan and to increase the Louisville payment plan "take-out" rates are hereby denied.

Cooperative associations excepted to the denial of proposals to revise the seasonal payment plan. For the most part, exceptions were a reiteration of testimony presented at the hearing. However, the cooperative association that proposed the base-excess plan stated that if its proposal could not be adopted, the association supported an increase in withholdings under the current Louisville plan, a position that it did not take at the hearing. However, the record of the hearing does not support a revision of the current payment plan, particularly in view of the substantial change in blend price relationships that would occur between the New England and New York-New Jersey markets during the takeout and payback months.

6. *Advertising and promotion program.* The order should not be amended to provide for an advertising and promotion program.

A cooperative association proposed that an advertsing and promotion program, as authorized by the Agricultural Marketing Agreement Act, should be provided in the order.

Seven other cooperatives supplying the New England market opposed the inclusion of an advertising and promotion program in the New England order. The opposition was based on the view that the proposed program for Order I would replace, needlessly, a longstanding, successful, local program with high producer participation.

Proponent's spokesman gave no evidence to support the claim that it is necessary to establish an advertising promotion program under the order to promote, advertise and conduct research for milk. In fact, the witness stated that the present advertising and promotion program, which is not under USDA auspices, is achieving these objectives. The record establishes that about 88 percent of the producers supplying the New England market participate in the advertising and promotion program now operating.

The present program is being conducted through Milk Promotion Services, Inc. All cooperative associations with members shipping milk into the New England market are affiliated with MPSI. Three cooperatives, including proponent, require mandatory

participation in the advertising and promotion program as a condition of membership; other cooperatives do not. Also, there are numerous producers who are not members of a cooperative association who voluntarily participate in the MPSI program. The MPSI program is operated through a "positive letter" which informs the producer that unless he indicates otherwise the deduction (6 cents per hundredwight) will be made by the handler who receives his milk.

Proponent's purpose in proposing an advertising and promotion program for inclusion in Order 1 is to improve its membership position in the market. According to proponent, membership in the cooperative is being diminished partly because blend prices paid by proponent are low relative to prices paid by other cooperatives and prices received by producers who are not affiliated with any cooperative association. Deductions that are now being made on a mandatory basis for advertising and promotion purposes were cited by proponent as one reason (among others) that it is experiencing declining membership. Proponent indicated that an advertising and promotion program under Order 1 would relieve it from making such deductions from its members' returns.

In 1972, the proponent cooperative association was formed through the merger of several cooperatives. Each year thereafter, there was a decline in the proportion of milk it handled for the market, and the decline has been at an accelerting rate. Proponent has lost members to other cooperatives which also have mandatory advertising and promotion as a condition of membership. Also, during this period of declining membership for proponent, marketwide promotional participation by producers increased substantially. This suggests that advertising and promotion deductions are not necessarily the cause of proponent's loss of membership as claimed. Proponent's spokesman stated that the advertising and promotion deduction was only a minor part of the deductions being made from members for market balancing and other costs. It cannot be concluded that the inclusion of an advertising and promotion program in the order would stop the decline in membership.

The provisions of the Act authorizing advertising and promotion programs are to promote the use of milk and dairy products and not to stem the decline in membership of a cooperative association. It is observed that the proponent association could eliminate deductions for advertising and promotion by providing for the voluntary participation in advertising and promotion as other cooperatives in the market have done. This is a matter to be decided by the cooperative.

Any advertising and promotion program provided by Order 1 should have widespread support by producers supplying the market. The record of this proceeding establishes that there is a viable advertising and promotion program now being operated in New England which is financed by a very large proportion of the producers supplying the market. The record establishes also that the degree of producer support for a program provided under Order 1 is substantially less.

For the foregoing considerations, it is concluded that the proposed advertising and promotion provisions for the New England market should not be adopted, and the proposal is denied.

Proponent cooperative excepted to the denial of its proposal but provided no basis for revising the findings of the recommended decision.

7. *Marketing Services Deduction.* The order should be amended to increase the maximum allowable marketing services deduction to 5 cents from the present maximum of 3 cents.

The order provides that in making payments to producers, other than himself and any producer who is a member of a cooperative association which the Secretary determines is performing services specified in the order, each handler shall deduct 3 cents a hundredweight or such lesser amount as the Secretary shall determine to be sufficient for marketing services. The handler is directed to pay the amount deducted to the market administrator on or before the 18th day after the end of the month. The order provides further that the market administrator shall expend the amounts so received only in providing for market information to such producers and for the verification of weights, samples, and testing of milk received from them.

A cooperative association proposed that the marketing services deduction rate for producers who are not members of a cooperative association should be increased to 5 cents from the present rate of 3 cents per hundredweight. Proponent's chief purpose in making the proposal is to bring the marketing service deduction rate for the New England order more in line with such rates for other Federal milk orders. A witness for the association testified that only 4 orders (including the New England order) as of January 1, 1976 had marketing service deduction rates below 5 cents per hundredweight.

Other cooperative associations supplying the market supported the proposal. No testimony in opposition to the proposal was presented at the hearing.

A witness representing the New England order market administrator also testified in favor of the proposed rate increase for marketing services. Testimony introduced into the record by the witness established the key considerations that justify an increase in the maximum rate of deduction.

The marketing services program was made a part of Order 1 in October 1960 with a maximum allowable deduction rate of 2 cents per hundredweight, and the actual rate of deduction was maintained at such level through September 1964. On October 1, 1964, the maximum allowable deduction rate was increased to 3 cents. However, the actual rate of deduction was 2.5 cents through December 1970. Since January 1, 1971, the actual marketing services deduction under Order 1 has been at the maximum allowable rate.

About 84 percent of the expenditures for marketing service work is for salaries and for travel. In this connection, salaries of government workers have been adjusted as needed to approach comparability with workers in the private sector. Since 1971, the comparability increases have raised the basic pay of the market administrator's 18 laboratory technicians by 35 percent. Laboratories are maintained at Dedham, Massachusetts; Middlefield, Connecticut; and Morrisville, Vermont.

In November 1976, 71,023,864 pounds of milk were received from 1,369 producers who were not members of any cooperative association supplying the market. Market information is provided to such nonmembers through the preparation and release of a publication identified as "The Market Administrator's Review." The Review is issued monthly although on occasion, for reasons of economy, the information for 2 months has been combined into a single bimonthly issue. The normal issue of the Review consists of 8 pages although, at times, up to 16 pages have been issued.

In 1971, when the marketing service deduction rate was increased from 2.5 cents to 3 cents, the printing costs of 2,000 copies of an 8-page Review was $275. In October 1976, the cost was $365, an increase of 33 percent. It is anticipated that printing costs will increase further in the foreseeable future. While the cost of printing the Review is one of the minor costs of carrying out the marketing service program, the cost increase involved is, in general, indicative of rising costs of services.

Most of the work conducted under the marketing service program concerns the verification of the weights, samples, and tests of milk received from nonmember producers. At the present time, virtually all of the nonmember milk is received from farm tanks. Accordingly, the verification of the weight of milk centers primarily on the checking of the farm tank calibration and verification that the bulk pick-up drivers correctly read the

gauge rods when the bulk milk is picked up. Since the mid-1960's, the market administrator has operated a mobile farm tank calibration checking unit. The truck alone, not including the body or the checking equipment, cost $5,206 in 1973. The replacement cost of the truck with a 1977 model would be $8,076, an increase of 55 percent.

Occasionally, significant errors in farm tank calibration are discovered. Such errors may be as much as 40 pounds or more. Based on current prices, and assuming everyday pick up, a 40-pound error in a producer's tank could mean increased income to the producer of well over $650 per year.

With respect to the verification of samples, it is normal practice to verify samples for at least one month out of every 6 for each nonmember producer. If unsatisfactory conditions are noted, the checking is continued until the conditions are rectified. The twice-a-year verification on a routine basis is considered to be a minimum program—provided there are not indications of any discrepancies in the handlers' procedures. For the first 11 months of 1976, there were on the average 265 producers for whom samples and tests had not been verified within the prior 6 months. The resources devoted to this phase of the marketing service program have been inadequate to achieve the desired frequency of checking.

In the verification of butterfat tests, the estimated value of 0.1 percent butterfat to the average nonmember producer of Order 1 for 1976 was about $650. In the absence of a checking program, it would be difficult for a producer to be confident of the test of his milk to as close as plus or minus 0.1 percent. If the resources were available, it would be desirable to increase the frequency of such checking. On the other hand, it would be very detrimental to the program to reduce the checking further as a result of a shortage of funds for such marketing service work. Such a reduction is prospective if the current maximum assessment rate is maintained.

As has been previously noted, the marketing service deduction under Order 1 has been at the maximum level since January 1, 1971. During this period, increases in the cost of providing the marketing services have been met by reducing the frequency with which the prescribed services were performed, or by achieving economies in rendering the services. Currently, however, the marketing service program is being squeezed between rising costs and fewer opportunities to keep pace with such cost increases through the achievement of efficiencies in the way the program is conducted. This situation possibly can be solved by curtailment of the services rendered. However, such solution would reduce the services provided under the program below a reasonable level and would result in providing inadequate marketing services to the nonmembers.

Prospectively, and at the current maximum rate, it is estimated that receipts from marketing service deductions for 1977 will be 2.4 percent above 1976. On the expense side, it is estimated that total laboratory expenses will be up $55,000 or 15.5 percent above 1976. Nearly 70 percent of the increase in the laboratory expense is accounted for in increases for salaries and related expenses, such as insurance and retirement.

An increase of about $6,000 in estimated travel expenses accounts for a substantial part of the rise in the 1977 budget not accounted for by the increased cost of salaries and related expenses. Recent gasoline price increases and the increasing cost of automobile repair and maintenance are anticipated to add further upward pressure on expenditures for marketing services, as will the cost of most other items. Budget projections for 1977 indicate a deficit of about $35,000 for the year. This would entirely wipe out a reserve of about $20,000 projected for the end of 1976.

The market administrator has obligations in connection with severance pay should it be necessary for any reason to reduce staff as a result of the elimination of the marketing service program or to curtail the size of the staff. The reserve under the marketing services program should be built up over a period of 2 or 3 years so that it can reasonably cover severance pay contingency.

From the foregoing factual considerations, it is concluded that a larger rate of deduction for marketing services is necessary if the market administrator is to continue to conduct an effective marketing service program for producers supplying the market who are not members of a cooperative association. Without proper farm tank calibration and the verification of weights and tests, the income of producers who are not members of an association could be adversely and significantly affected through inadvertent error. Without timely and accurate market information, producers who are not members of a cooperative association could not plan their respective milk production operations in relation to prevailing and prospective marketing conditions.

It is concluded further that inflationary pressures on critical costs comprising the marketing service program for nonmembers have made it impossible to continue the performance of required services without an increase in the level of expenditures under the marketing service program. Salaries and travel costs, which comprise 84 percent of the expenditures for marketing service, are the type of expenditures that have been subject the most to the impact of inflation. There have been no economic projections that predict an early end to such upward pressures. Since the marketing service program has operated at the maximum allowable rate since 1971, the continuation of an effective marketing service program can be assured only by increasing the maximum allowable marketing service deduction rate to 5 cents per hundredweight.

The new maximum rate of 5 cents per hundredweight proposed herein will permit the market administrator to conduct an effective marketing service program for those producers not receiving such services from a cooperative association. It is anticipated that with the adoption of the new maximum rate of 5 cents provided herein it will be possible, at least for some period of time, to operate at a rate above the present 3 cents but below the proposed maximum.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

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

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

and wholesale milk, and be in the public interest; and

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

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisons of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the New England marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the New England marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be November 1977.

The agent of the Secretary to conduct such referendum is hereby designated to be Oscar Zucchi.

NOTE.—The Agricultural Marketing Service has determined that this document contains major proposals requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that such statement has been prepared.

Signed at Washington, D.C., on March 20, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

Order [1] amending the order, regulating the handling of milk in the New England marketing area

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the New England marketing area shall be in conformity on and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Program Operations, on December 6, 1977, and published in the FEDERAL REGISTER on December 12, 1977, shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Section 1001.4 is revised to read as follows:

§ 1001.4 Plant.

"Plant" means the land and buildings, together with their surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, processing, or packaging of milk or milk products. The term "plant" shall not include:

(a) Distribution points (separate premises used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants); or

(b) Bulk reload points (separate premises used for the purpose of transferring bulk milk from one tank truck to another tank truck while en route from dairy farmers' farms to a plant, and at which premises stationary storage tanks are not maintained and used). The cooling of milk, collection or testing of samples, and washing and sanitizing of tank trucks at the premises shall not disqualify it as a bulk reload point under this paragraph.

2. In § 1001.5b, paragraphs (a), (b), (c), and (d) are revised to read as follows:

§ 1001.5b Supply plant.

* * * * *

(a) It is a plant at which facilities are maintained and used for washing and sanitizing cans and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled, or it is a plant to which milk is moved from dairy farmers' farms in tank trucks.

(b) It is a plant from which in any month of August and December at least 15 percent, and in any month of September through November at least 25 percent, of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

diverted milk, to pool distributing plants.

(c) For any month of August thorugh December, it is one of a group of plants that meets the conditions specified in this paragraph.

(1) The handler's written request for continuation of pool supply plant status, which the plant held under his operation in the preceding month, is received by the market administrator on or before the 16th day of the month.

(2) The group of plants, considered as a unit, meets the shipping requirements specified in paragraph (b) of this section.

(3) To qualify as a pool supply plant under this paragraph in December of any year, the plant, considered individually, shall have shipped at least 5 percent of its total receipts of milk from dairy farmers' farms as fluid milk products, other than as diverted milk, to pool distributing plants in one of the months of August through December of that year.

(4) In the event of the failure of a group of plants to meet fully the requirements of paragraph (c)(2) of this section, termination of pool supply plant status shall be limited to the least number of plants which will result in the remaining supply plants meeting the requirements of paragraph (c)(2) of this section. If such termination becomes necessary, the handler shall be permitted to designate which plants shall continue to have pool plant status for the month.

(5) For the purposes of this paragraph, any supply plant operated by a cooperative association that is also a handler under § 1001.9(d) may be considered as one of a group of plants. In that event, the group's total receipts of milk from dairy farmers' farms shall be the total of such receipts by the association other than at any of its plants that is not one of the group, and the group's qualifying shipments shall consist of the qualifying shipments from the plants in the group plus the quantity of milk moved by the association in its capacity as a handler under 1001.9(d) from farms of its members to pool distributing plants.

(d) For any month of January through July, it is a plant from which at least 15 percent of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as diverted milk, to pool distributing plants or it is a plant that meets the requirements for automatic pool plant status specified in this paragraph. The automatic pool plant status of a plant shall be revoked for any month for which the market administrator has received the handler's written request for revocation on or before the 16th day of that month. In that event, the plant shall not have automatic pool plant status in any subsequent month of the current January through July period.

(1) The plant was a pool supply plant under this order in each of the preceding months of August through December; or

(2) The plant was a pool supply plant under this order in at least two of the preceding months of August through December and would have been such a plant in all other months in that period had it not been a pool plant under the New York-New Jersey Federal order.

* * * * *

3. In § 1001.11, paragraph (C) is revised to read as follows:

§ 1001.11 Dairy farmer for other markets.

* * * * *

(c) The term includes a dairy farmer with respect to milk that is received from him by a handler at a pool plant or that is purchased from him by a cooperative association in its capacity as a handler under § 1001.9(d) during any of the months of January through July, if the handler caused nonpool milk from the same farm to be received during any of the preceding months of August through December at a plant that is not a pool plant under any Federal order in the current month. The term shall not apply to the dairy farmer, however, if all the nonpool milk was a receipt of producer milk under the provisions of another Federal order or represented receipts from own production by a producer-handler under any Federal order, or was excluded from producer milk under § 1001.15.

* * * * *

4. In § 1001.15, the preamble is revised to read as follows:

§ 1001.15 Diverted milk.

"Diverted milk" means milk, other than that excluded under § 1001.12 from being considered as received from a producer, that meets the conditions set forth in paragraph (a) or (b) of this section and is not excluded from diverted milk under paragraph (c) of this section.

* * * * *

5. In § 1001.43, a new paragraph (d) is added as follows:

§ 1001.43 Assignment of receipts to classes in general.

* * * * *

(d) Prior to the assignment of receipts to classes under §§ 1001.44 through 1001.47, there shall be assigned to Class I and Class II milk the quantities of Class I and Class II milk, respectively, which are diverted in accordance with § 1001.15 and classified in accordance with § 1001.42.

6. In § 1001.47, paragraph (a) is revised to read as follows:

§ 1001.47 Additional assignments to Class I and Class II milk.

(a) At pool distributing plants that have received bulk fluid milk products from pool plants located outside the nearby plant zone, assign to Class II milk a quantity of receipt from producers and cooperative associations in their capacity as handlers under § 1001.9(d) equal to 6 percent of skim milk and 25 percent of butterfat in the plant's Class I route disposition or the remaining Class II milk at the plant, whichever is less.

* * * * *

7. In § 1001.50, the preamble and paragraph (a) are revised to read as follows:

§ 1001.50 Class prices.

Subject to the provisions of § 1001.52, the class prices per hundredweight of milk for the month shall be as follows:

(a) *Class I price.* The Class I price at plants located in zone 21 shall be the basic formula price for the second preceding month plus $2.58.

* * * * *

8. In § 1001.52, the words "The class prices" in the preamble are changed to read "The Class I" and paragraph (e) is revised to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(e) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

Location adjustments for determination of zone price

Distance to Boston (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
Various	Nearby plant	+40.0
31 to 40	4	+36.4
41 to 50	5	+35.2
51 to 60	6	+34.0
61 to 70	7	+32.8
71 to 80	8	+31.6
81 to 90	9	+30.4
91 to 100	10	+29.2
101 to 110	11	+28.0
111 to 120	12	+26.8
121 to 130	13	+25.6
131 to 140	14	+24.4
141 to 150	15	+7.2
151 to 160	16	+6.0
161 to 170	17	+4.8

Distance to Boston (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
171 to 180	18	+3.6
181 to 190	19	+2.4
191 to 200	20	+1.2
201 to 210	21	0
211 to 220	22	−1.0
221 to 230	23	−2.0
231 to 240	24	−3.0
241 to 250	25	−4.0
251 to 260	26	−5.0
261 to 270	27	−6.0
271 to 280	28	−7.0
281 to 290	29	−8.0
291 to 300	30	−9.0
301 to 310	31	−10.0
311 to 320	32	−11.0
321 to 330	33	−12.0
331 to 340	34	−13.0
341 to 350	35	−14.0
351 to 260	36	−15.0
361 to 370	37	−16.0
371 to 380	38	−17.0
381 to 390	39	−18.0
391 to 400	40	−19.0
401 and over	41 and over	(1)

[1] Class 1 and blended price location adjustments applicable to plants located more than 400 miles from Boston shall be obtained by extending the table at the rate of 1 cent for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month.

§ 1001.60 [Amended]

9. In § 1001.60(e), the words "applicable Class II prices" are changed to read "Class II price".

§ 1001.73. [Amended]

10. In § 1001.73(a), the words "zone 21" are deleted.

§ 1001.74 [Amended]

11. In § 1001.74(d)(1), the words "zone 21" are deleted.

§ 1001.86 [Amended]

12. In § 1001.86, the "3 cents" specified in paragraph (a) is changed to "5 cents."

[FR Doc. 78-7826 Filed 3-24-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 34]

LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

Amendments of Radiography Regulations

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering several changes in its regulations on industrial radiography. Some of the changes in the regulations proposed in these amendments are intended to reduce the radiation overexposure rate of radiographers. Other changes are intended to formalize as regulations current licensing practices.

DATES: Comment period expires May 26, 1978.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Dr. Stephen A. McGuire, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-6920.

SUPPLEMENTARY INFORMATION: For some time the Nuclear Regulatory Commission has been concerned with the number of radiation overexposures among radiographers. The amendments proposed here are in part intended to reduce the frequency of these overexposures. The amendments are also intended to formalize as regulations certain practices observed by the staff in the review of license applications. There has also been an effort to simplify the wording in the sections that would be amended. The proposed changes are discussed below.

A new definition of the "personal supervision" that a radiographer must give a radiographer's assistant would be added to § 34.2 of 10 CFR Part 34. The purpose is to specify that a radiographer be physically present and watching whenever a radiographer's assistant uses radiographic exposure devices, sealed sources or related sealed source handling tools, or radiation survey instruments in radiography. The amendment would not prohibit an assistant from placing film or maintaining surveillance of high radiation areas while out of the sight of the radiographer. This amendment is consistent with current licensing practice.

It is important that the radiographer be present when a radiographer's assistant performs radiographic operations because individuals are permitted, under training programs approved by the NRC staff, to begin work as a radiographer's assistant with a minimal amount of training. Typically a few hours of instruction in the licensee's operating and emergency procedures and the use of the licensee's equipment are considered sufficient to qualify an individual to act as a radiographer's assistant. The assistant is not expected to be capable of properly operating the radiographic equipment without a radiographer present. It is important for individuals to enter into the on-the-job training portion of the training program in order to enhance the classroom training they receive in radiation safety, the licensee's operating and emergency procedures, license conditions, and Commission regulations. This new requirement is not considered excessively burdensome because typically an individual will remain an assistant for at most a few months before becoming a radiographer.

A new definition of "permanent radiographic installation" also would be added to § 34.2. The term is used in proposed § 34.29 and requires definition.

Section 34.11 would be amended to specify a quarterly frequency for the internal inspections which applicants must describe in their license applications. This a a codification of licensing staff practice for the purpose of making licensing requirements known in advance of license application. A quarterly frequency for checking on radiographer safety performance, together with other knowledge of the program, should enable management to conduct an adequate audit of the radiographer's working habits without causing an unreasonable administrative burden. Records of the inspections would be required.

Section 34.22 would be amended to require that during radiographic operations using crankout type radiographic exposure devices, the sealed source be secured in its shielded position each time the source is returned to that position by locking the radiographic exposure device, the crankout device, or by other suitable means. An example of other suitable means could be turning a knob to secure the source without the use of a key. At present, securing the source is not required if the device is under the direct surveillance of a radiographer or his assistant or if the radiographic operation is conducted in a facility which is either locked to prevent entry, has an automatic source retraction device which would be activated by anyone entering the area, or has an audible or visual alarm to warn both the person entering the area and the radiographer. The proposed amendment would require securing the source in crankout devices any time the device is not in use. It is current practice, as reflected in license applications or specific license conditions, to require such securing of the source. After a radiation survey has been made, it is prudent to secure the source to keep it from leaving the shielded position.

The reason for this proposed change is that there have been overexposures in which the source was retracted to its shielded position but then inadvertently moved to an unshielded position. Securing the source would prevent this movement. There have also

been overexposures at permanent radiographic facilities equipped with two sources in which the wrong crank was turned. This exposed the unused source instead of retracting the exposed source. Securing the sources after exposures could reduce accidents of this type with the expenditure of a small effort.

Section 34.28 would be amended to require that radiographic exposure devices be checked for obvious damage each day before use and thoroughly inspected and maintained preventively each quarter. The current regulation calls for inspections and maintenance of equipment but does not specify frequencies. Daily checks and preventive quarterly maintenance are consistent with current practice reflected in license applications and with manufacturers' recommendations.

A new § 34.29 would be added to require the permanent radiographic installations have visible and audible warning signals. The visible signal is activated by radiation whenever the source is exposed. The audible signal will warn anyone attempting to enter the installation of the hazard and will make at least one other person who is familiar with the activity aware of the attempted entry. This change would delete options now given in § 20.203(c)(2). Many licensed permanent installations already have such alarm systems. Quarterly testing of the alarm and retention of test records would also be required.

A significant proportion of the radiation overexposures in recent years have happened at permanent radiographic installations that do not have such warning signals. It is believed that this change would significantly reduce the overexposure rate at permanent radiographic installations.

Section 34.31 would be amended to require that both radiographers and radiographer's assistants demonstrate understanding of their training by receiving written and field examinations. A requirement to maintain records of this training would also be added. With respect to radiographers, these changes should have little real impact since they reflect common practices among radiography licensees. However, the changes imply a more formal training and testing of radiographer's assistants than is common; many radiographer's assistants now receive only oral testing.

Section 34.33 would also be amended to require yearly accuracy checks of pocket dosimeters to assure they are reading within 30 percent of the correct radiation exposure. It has been noted that the sensitivity of direct reading pocket dosimeters varies with age and usage. In particular, if the dosimeter is not kept charged the sensitivity changes. The rate at which the sensitivity changes suggests an annual accuracy check to assure that the dosimeters being used are accurate within ±30 percent. The value of ±30 percent was chosen because this accuracy is accepted by the NRC staff as adequate for the performance of personnel monitoring devices.[1] This accuracy and the specified test frequency are in conflict with Regulatory Guide 8.4, "Direct-Reading and Indirect-Reading Pocket Dosimeters." The NRC staff intends to revise this guide soon to remove the conflict.

Section 34.33 would also be amended to state explicitly that after an individual's pocket dosimeter has gone offscale the individual would be prohibited from further radiographic operations until the magnitude of the exposure has been evaluated.

Section 34.41 would be amended to reflect the new § 34.29 which concerns alarms at permanent radiographic installations. In addition, locking of the high radiation area to protect against unauthorized or accidental entry would no longer be an acceptable substitute for direct surveillance at temporary radiographic sites.

Section 34.43 would be amended to state specifically that an adequate radiation survey after a radiographic exposure includes a survey of the entire circumference on the radiographic exposure device and the source guide tube if there is a guide tube. Radiation levels at the radiographic exposure device can be near normal when the source is at the far end of the guide tube. Merely surveying the device is not adequate to show that the source is in the shielded position.

Section 34.43 would also be amended to specify that a radiation survey of the restricted area boundary with the source exposed must be performed before or during each radiographic exposure unless the source target configuration for an exposure is substantially the same as that of the preceding exposure or if the exposure is made in a permanent radiographic installation. The purpose of this change is to assure that adequate surveys of the perimeters of restricted areas are made. This change would assure that the restricted area has been set at a proper distance from the source.

[1] Acceptance of this accuracy by the NRC staff was presented in a public meeting on Performance Testing of Personnel Dosimetry, November 30 and December 1, 1976. The draft ANSI Standard N716, "Criteria for Testing Personnel Dosimetry Performance," formed the technical basis for that meeting. The accuracy needs expressed in the draft standard are based on the recommendations of the International Commission on Radiation Units and Measurements (ICRU Publication 20, "Radiation Protection Instrumentation and Its Application," page 7) and the recommendations of the International Commission on Radiological Protection (ICRP Publication 21, "General Principles of Monitoring for Radiation Protection of Workers," paragraph 101).

Appendix A of Part 34 would be amended to delete instruction in NRC regulations and in the licensee's operating and emergency procedures since this requirement is redundant with § 34.31, paragraph (a)(2). The subject of case histories of some radiography accidents has been added to the appendix. It is believed that a study of how accidents have happened in the past can help avoid making the same mistakes again. The NRC staff will issue a report containing relevant case history discussions in August 1978.

Appendix A would also be amended to include instruction in the inspection and maintenance of radiographic equipment whe the radiographer is expected to pe form the inspection and maintenance of that equipment.

The NRC also considered the advisability of requiri g radiographers to wear personal alai m dosimeters in addition to the othei dosimeters now required. The best information the Commission was able to obtain indicated that certain of these personal alarm dosimeters may be of questionable reliability. Safety could be decreased by use of these devices rather than increased. This situation would occur if radiographers were to pay less attention to their radiation surveys than at present and instead were to depend on an unreliable alarm dosimeter. This substitution would be a natural human response to a situation where the radiographer felt two equivalent devices were present to warn of high radiation levels. In such a situation, the radiographer could be expected to choose the easiest method of protection—in this case by relying on the alarm dosimeter as a substitute for using the radiation survey instrument. A similar situation could arise with audible signals built into survey meters.

Because of the problem of unreliability of person alarm dosimeters, the NRC staff, within the next few months, will draft criteria for performance of these dosimeters, emphasizing their reliability. Commercially available alarm dosimeters will then be tested. Based on the results of these tests a recommendation on requiring the use of such alarm dosimeters will be developed.

Under the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Part 34 is contemplated. All interested persons who desire to submit written comments for consideration on the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by May 26, 1978. Copies of the comments received on the proposed amendments may be examined or

copied at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

1. Paragraphs (d), (e), and (f) of § 34.2 are redesignated as paragraphs (e), (f), and (g) respectively.

New paragraphs (d) and (h) are added to read as follows:

§ 34.2 Definitions.

* * * * *

(d) "Personal supervision" of a radiographer's assistant by a radiographer means supervision in which the radiographer is physically present at the site where sealed sources are being used and watching the assistant when the assistant uses radiographic exposure devices, sealed sources or related source handling tools, or radiation survey instruments in radiography.

* * * * *

(h) "Permanent radiographic installation" means a shielded installation or structure in which radiography is regularly performed.

2. Paragraph (d) of § 34.11 is amended to read as follows:

§ 34.11 Issuance of specific licenses for use of sealed sources in radiography.

* * * * *

(d) The applicant will have an adequate internal inspection system to assure that Commission regulations, Commission license provisions, and the applicant's operating and emergency procedures are followed by radiographers and radiographer's assistants; the inspection system shall include the performance of internal inspections at intervals not to three months and the retention of records of such inspections for two years.

3. Section 34.22 is amended to read as follows:

§ 34.22 Locking of radiographic exposure devices, storage containers, and source changers.

(a) Each radiographic exposure device shall have a lock or outer locked container designed to prevent unauthorized or accidential removal of the sealed source from its shielded position. The exposure device or its container shall be locked each day when its use is terminated and shall remain locked until its use is resumed. In addition, during radiographic operations using crankout type radiographic exposure devices the sealed source shall be secured in its shielded position each time the source is returned to that position by locking the exposure device or the crankout control or by other suitable means.

(b) Each sealed source storage container and source changer shall have a lock or outer locked container designed to prevent unathorized or accidential removal of the sealed source from its shielded position. Storage containers and source changers shall be kept locked when containing sealed sources except when under the direct surveillance of a radiographer or a radiographer's assistant.

4. Section 34.28 is amended to read as follows:

§ 34.28 Inspection and maintenance of radiographic exposure devices and storage containers.

(a) The licensee shall check for obvious defects in radiographic exposure devices, storage containers, and source changers prior to use each day the equipment is used.

(b) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, and source changers at intervals not to exceed three months to assure proper functioning of components important to safety. Records of these inspections and maintenance shall be kept for two years.

5. A new § 34.29 is added to read as follows:

§ 34.29 Permanent radiographic installations.

Each entrance to a permanent radiographic installation shall have visible and audible warning signals. The visible signal shall be actuated by radiation whenever the source is exposed. The audible signal shall be actuated when an attempt is made to enter the installation while the source is exposed. The audible signal shall warn an individual entering the installation of the hazard and shall make at least one other individual who is familiar with the activity aware of the entry. With respect to permanent radiographic installations, this requirement supersedes the requirements in § 20.203(c)(2). The alarm system shall be tested at intervals not to exceed three months. Records of the tests shall be kept for two years.

6. Section 34.31 is amended to read as follows:

§ 34.31 Training.

(a) The licensee shall not permit any person to act as a radiographer until such person:

(1) Has been instructed in the subjects outlined in Appendix A of this part;

(2) Has received copies of and instruction in NRC regulations contained in this part and in the applicable sections of Parts 19 and 20 of this chapter, NRC license(s) under which the radiographer will perform radiography, and the licensee's operating and emergency procedures;

(3) Has demonstrated competence to use the licensee's exposure devices, sealed sources, relating handling tools, and survey instruments; and

(4) Has demonstrated understanding of the instructions in this paragraph (a) by successful completion of a written and field examination on the subjects covered.

(b) The licensee shall not permit any person to act as a radiographer's assistant until such person:

(1) Has received copies of and instruction in the licensee's operating and emergency procedures;

(2) Has demonstrated competence to use under the personal supervision of the radiographer the radiographic exposure devices, sealed sources, related handling tools, and radiation survey instruments that he will use; and

(3) Has demonstrated understanding of the instructions in this paragraph (b) by successfully completing a written and field examination on the subjects covered.

(c) Records of the above training including copies of the tests shall be maintained for as long as the individual works for the licensee as a radiographer or a radiographer's assistant.

7. Section 34.33 is amended to read as follows:

34.33 Personnel monitoring.

(a) The licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each such individual wears a direct reading pocket dosimeter and either a film badge or a thermoluminescent dosimeter (TLD). Pocket dosimeters shall have a range from zero to at least 200 milliroentgens and shall be recharged at the start of each shift. Each film badge and TLD shall be assigned to and worn by only one individual.

(b) Pocket dosimeters shall be read and exposures recorded daily.

(c) Pocket dosimeters shall be checked at periods not to exceed one year for correct response to radiation. Acceptable dosimeters shall read within plus or minus 30 percent of the true radiation exposure.

(d) If an individual's pocket dosimeter is discharged beyond its range, his film badge or TLD shall be immediately sent for processing. The individual shall be prohibited from performing radiographic operations until the magnitude of the exposure has been evaluated.

(e) Reports received from the film badge of TLD processor and records of daily pocket dosimeter readings shall be kept for inspection by the Commission until it authorizes their disposal.

8. Section 34.41 is amended to read as follows:

34.41 Security.

During each radiographic operation not conducted in a permanent radiographic installation, the radiographer or radiographer's assistant shall maintain direct surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in Part 20 of this chapter.

9. Section 34.43 is amended to read as follows:

34.43 Radiation surveys.

(a) At least one calibrated and operable radiation survey instrument shall be available at the location of radiographic operations whenever radiographic operations are being performed.

(b) A survey with a radiation detection instrument shall be made after each radiographic exposure to determine that the sealed source has returned to its shielded position in the radiographic exposure device. The entire circumference of the device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.

(c) When the use of a radiographic exposure device or storage container is to be terminated at the end of a work period, a survey with a radiation detection instrument shall be made of the locked radiography device or storage container to determine that the sealed source is in its shielded position. A record of the surveys required by this paragraph (c) shall be kept for two years.

(d) An area survey of the perimeter of the restricted area with a radiation detection instrument shall be made with the source exposed before or during the initial radiographic exposure on each shift and when the source-target configuration for an exposure is substantially different from that of the preceding exposure. These surveys are not required for radiography performed in a permanent radiographic installation.

10. Appendix A is amended to read as follows:

APPENDIX A

I. FUNDAMENTALS OF RADIATION SAFETY

A. Characteristics of gamma radiation.
B. Units of radiation dose (mrem) and quantity of radioactivity (curie).
C. Hazards of excessive exposure of radiation.
D. Levels of radiation from licensed material.
E. Methods of controlling radiation dose.
1. Working time.
2. Working distances.
3. Shielding.

II. RADIATION DETECTION INSTRUMENTATION TO BE USED

A. Use of radiation survey instruments.
1. Operation.
2. Calibration.
3. Limitations.
B. Survey techniques.
C. Use of personnel monitoring equipment.
1. Film badges and thermoluminescent dosimeters.
2. Pocket dosimeters.

III. RADIOGRAPHIC EQUIPMENT TO BE USED

A. Remote handling equipment.
B. Radiographic exposure devices.
C. Storage containers.

IV. INSPECTION AND MAINTENANCE PERFORMED BY THE RADIOGRAPHER

V. CASE HISTORIES OF RADIOGRAPHY ACCIDENTS

11. The second sentence of the citation of authority is amended to read as follows:

AUTHORITY: * * * For the purposes of Sec. 223 68 Stat. 958 as amended; 42 U.S.C. 2273 §§ 34.11(d), 34.25(c), 34.26, 34.27, 34.28(b), 34.29, 34.31(c), 34.33(b), 34.33(e), and 34.43(c) issued under Sec. 161o., 68 Stat. 950, as amended, 42 U.S.C. 2201(o).

(Sec. 161, Pub. L. 83-703, 69 Stat. 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C. this 20th day of March 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-7846 Filed 3-24-78; 8:45 am]

[7590-01]

[10 CFR Part 34]

LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

Advance Notice of Proposed Rulemaking on Design of Radiographic Exposure Devices

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission is undertaking development of safety design requirements for radiographic exposure devices. When completed they will be published as proposed amendments to NRC regulations. The new requirements will be intended to reduce radiation overexposures caused by equipment failure. Interested persons are invited to submit written comments on preliminary draft requirements and to take part in a public meeting to be held April 18.

DATES: Comments should be received by May 26, 1978. A public hearing will be held April 18, 1978.

ADDRESSES: Comments or suggestions for consideration in connection with the development of the design requirements may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Comments also may be submitted in writing or presented orally at the Public meeting on April 18, 1978, in Room P118, Phillips Building, 7920 Norfolk Avenue, Bethesda, Md.

FOR FURTHER INFORMATION CONTACT:

Mr. Donovan A. Smith, Transportation and Product Standards Branch, Division of Engineering Standards, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6910.

SUPPLEMENTARY INFORMATION: Please take notice that the NRC is undertaking the development of design requirements for radiographic exposure devices intended for use under licenses issued pursuant to 10 CFR Part 34, "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations." To aid the NRC in this undertaking, interested persons are invited to submit information, comments and suggestions with respect to such requirements. Submissions may be in writing and sent to the Secretary of the Commission or may be presented in writing or orally at an informal public meeting to be held April 18, 1978, beginning at 9:30 a.m. in Room P118 of the U.S. NRC's Phillips Building, 7920 Norfolk Avenue, Bethesda, Md.

BACKGROUND

Sealed sources of gamma emiting isotopes, principally iridium-192 and cobalt-60, are extensively used in industry to nondestructively test metallic materials for defects. For example, the integrity of welded connections between sections of a pipeline to be used for transporting oil are routinely checked radiographically at the time of construction of the pipeline. In performing radiography, the sealed radioactive source is handled as part of a radiographic exposure device. That device incorporates components that are important to radiation safety. On occasion, a component has failed to perform its intended function and that failure has contributed to unnecessary exposures to the radiographer and others in the immediate vicinity. In addition, improvements in design could reduce overexposures caused by operator error.

PROPOSED ACTION

In order to reduce the number of component failures (particularly those

that may not be readily detected) and unnecessary exposures, the NRC is developing a set of radiation safety design features which it believes should be incorporated into radiography exposure devices. At this early stage of development, the Commission is inclined to place considerable emphasis on design features which give positive indication that a sealed source is not in a shielded location. The Commission believes that radiographic exposure devices, particularly those not used in permanent radiographic installations where gamma alarm systems are feasible, should have a positive means of preventing an operator from believing a source is in a shielded position when it is not. This emphasis on positive indication of source location is not intended to detract from the radiographer's use of radiation survey meters. Rather, the building into the device of a positive means of identifying the location of the source is intended to provide another means for the radiographer to be informed of a potential problem. The combined use of survey meter and reliable source location indicator should minimize errors by the radiographer with respect to the location of the source.

Source-position indicator lights have been used on radiographic exposure devices in the past with generally unsatisfactory results. The switches controlling the lights occasionally malfunctioned, often due to the severe conditions the exposure devices had been subjected to—hard use in dirt, mud, or grit. Radiographers using the exposure devices with indicator lights apparently reduced their use of survey meters because they believed themselves to be adequately protected. Omitting a survey in these situations was a violation of regulations, but nevertheless the radiographers relied on the easiest available indication of source position and did not survey. The result was a number of overexposures. Although the Commission has yet to define the criteria for determining that a source location indicator is acceptable for licensing purposes, previously accepted indicator lights are unlikely to provide the necessary reliability. Such criteria will be developed before the requirement for positive source location indicators is imposed on licensees.

Preliminary Draft

Set out below is a preliminary draft of radiation safety design features of radiography exposure device. The NRC is particularly interested in receiving views on the following:

1. Would incorporation into Part 34 of the listed design features be likely to reduce (a) the number of component failures, (b) the likelihood of operator error, and (c) unnecessary exposure of radiographers?

2. What deletions, additions or modifications, with supporting rationale, should be made to the preliminary draft?

3. In what respects do the listed design features depart from presently used and presently manufactured devices?

4. Would it be practical to back fit presently used devices so as to satisfy the listed design features?

5. In order to reduce the magnitude of overexposures, should a source quantity limit be established for field radiographic devices? What should be that quantity limit?

6. What changes, if any, should be made in the limits on levels of radiation for radiographic devices to reduce radiation exposures to radiographers, other workers, and the public?

Radiation Safety Design Features of Radiography Exposure Device

I. SHIELDING

1. The dose rate from a loaded, locked camera shall not exceed those set out in § 34.21.

2. When the shielding material is uranium, the source tube inside the camera shall be lined.

II. LABELLING

1. Labels on cameras shall satisfy the requirements of § 20.203(f) and state the manufacturer, model number and serial number and shall state the isotope and maximum activity which can be contained without exceeding the radiation levels in § 34.21.

2. Directional exposure devices shall be clearly marked to show the direction of the emergent beam.

III. LOCKING

1. The camera shall have a lock which is not easily removable with readily available tools.

2. When the camera is locked, it shall not be possible to remove the source from the camera or to move the source shielding so as to expose the source.

3. The lock shall not prevent return of the source to a shielded position.

4. It shall not be possible to unlock the camera with any easily available substitute for the key.

5. It shall not be possible to operate the lock unless the source is in the fully shielded position.

6. It shall not be possible to remove the source through the back of the camera even when the camera is unlocked.

IV. SOURCE EXPOSURE CONTROLS

1. The complete exposure device, i.e., control cable assembly, camera and source guide tube, should allow proper functioning in the environment in which it will be used, special attention being given to factors such as heat, cold, humidity, dirt, mud and grit.

2. During transportation or storage, the source assembly should be protected against damage and dirt.

3. it shall not be possible to expose the source unless it has been properly connected to the drive cable (if applicable).

4. The control cable, pigtail conector, stopping ball, and source attachment to the pigtail (if applicable), shall be designed to withstand a load of 200 lbs. and pull-tested to 100 lbs.

5. The source guide tube and the crank cable conduit (if applicable) shall be able to withstand kinking and crushing forces likely to be encountered.

6. The bends and diameter of the internal source tube shall be compatible with easy movement of the source and control cable (if applicable).

7. The pigtail connector shall be designed to prevent other than deliberate disconnection of the drive cable from the pigtail.

V. SOURCE AND SHIELD LOCATION INDICATORS

1. A reliable positive means of preventing a reasonable person from believing a source is in a shielded position when it is not, shall be provided.

2. Source location indicators (if applicable) and shield position indicators (if applicable) shall be of a fail-safe type.

VI. TRANSPORTATION

1. Cameras without the use of an overpack shall meet the requirements of a "Type B" package as described in the transportation regulations.

2. There shall be a positive means of retaining the source in its shielded position during transportation.

VII. QUALITY ASSURANCE

1. In addition to the above radiation safety design features, radiography exposure devices shall be manufactured in accordance with a quality control program which assures acceptable quality in each device and its components.

VIII. MAINTENANCE

1. Components subject to wear or damage shall be designed to facilitate inspection and repair/replacement.

Dated at Washington, D.C., this 20th day of March, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-7818 Filed 3-24-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 208]

[Regulation H, Docket No. R-0142]

RECORDKEEPING AND CONFIRMATION REQUIREMENT FOR CERTAIN SECURITIES TRANSACTIONS EFFECTED BY STATE MEMBER BANK

Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extension of comment period.

SUMMARY: The Board on January 30, 1978, invited public comment on a proposed rule that would, if adopted, require that State member banks that effect certain securities transactions for customers provide confirmations of and maintain records with respect to such transactions (43 FR 5006 (1978)). The Secretary of the Board, pursuant to delegated authority, by this notice extends for thirty days the comment period on that rulemaking proposal at the request of the American Bankers Association, Washington, D.C.

DATE: Comments must now be received by May 1, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the docket number R-0142.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, 202-452-2781, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, through its Secretary, acting pursuant to delegated authority (12 CFR 265.2(a)(15)), March 20, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-8131 Filed 3-24-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 120]

BUSINESS LOAN POLICY FLUCTUATING INTEREST RATES

Notice of Proposed Rulemaking

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) permits participating lending institutions to utilize a fluctuating interest rate on loans to small businesses. Fluctuating interest rates encourage term loans by allowing the lender to match the interest rate with the future cost of funds in the money markets. The proposed amendment would add an incentive to make loans with a maturity of 7 or more years.

DATE: Comments must be received by April 17, 1978.

ADDRESS: Comments should be submitted to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Room 800, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Robert N. Marshall, Director, Office of Program Development, 202-653-6830.

SUPPLEMENTARY INFORMATION: For loans with less than 7 years maturity there would be a continuance of the policy to permit fluctuation of the loan interest rate on successive fluctuation periods in accordance with a constant addition to the selected base rate (prime or the SBA Optional Peg Rate). In such loans, the increase in interest to be added to the base rate cannot exceed the difference between the base rate and SBA's published maximum acceptable rate. Thus, if SBA's maximum applicable rate was 9 percent and the base rate was 7 percent (as of the date of the loan application) then the interest to be added to the base rate on future fluctuation periods could not exceed 2 percent. If the initial note rate is less than the applicable SBA maximum rate then the addition to the base rate must be reduced by an equal factor. Under the proposed rule, a new maximum of 2½ percentage points would be established for the addition to the base rate in loans with less than 7 years maturity. In loans with maturities of 7 or more years, the new rule would permit lenders to provide an addition to the base rate of up to 3 percentage points even where such an addition would be greater than the difference between the initial note rate and the base rate as of the date the lender submitted the application to SBA. Thus, even if the initial note rate was 9 percent and the original base rate was 7 percent, the addition to the base rate on all successive fluctuation periods, after one fluctuation period, could be 3 percentage points for loans with maturities of 7 or more years.

The requirement that the initial note rate for all loans must not exceed SBA's maximum rate and must apply for at least one full fluctuation period would be a continuation of current SBA policy.

The proposed rule will provide a choice of the base rate from either a prime rate published daily in a newspaper, or other printed publication available to the public, or from the SBA Optional Peg Rate published quarterly by SBA in the FEDERAL REGISTER.

Accordingly, pursuant to the authority of Section 5 of the Small Business Act, 72 Stat. 385, 15 U.S.C. 634, and Section 7 of such Act, as amended, 72 Stat. 387, 15 U.S.C. 636, it is proposed to amend Part 120 in the manner set forth below:

§ 120.3 Terms and conditions of business loans and guarantees.

* * * * *

(b) * * *

(2) * * *

(ii) Subject to approval of SBA a participating lending institution may establish such rate of interest on guaranteed loans, and on its share of immediate participation loans, as may be legal and reasonable, subject to the maximum acceptable interest rate under subparagraph (iv) hereof.

(iii) Subject to subparagraph (ii), a participating lending institution (lender) may utilize a fluctuating rate of interest. The fluctuations may occur not more often than quarterly, and must rise or fall on the same basis. The initial interest rate on the loan shall not exceed SBA's maximum acceptable rate as of the date the loan application was submitted by the lender to SBA, and the initial rate must remain in effect for not less than one full fluctuation period (e.g., one full calendar quarter); thereafter, the publication of, or variations in, SBA's maximum acceptable rate shall have no further effect or application when the interest rate fluctuates as the base rate fluctuates. The fluctuating interest may only be based either on the prime rate in effect on the first date of the fluctuation period and published daily in a public print media, or on the SBA Optional Peg Rate which is published by SBA. For loans with maturities under seven (7) years, the increase in interest added to the base rate cannot exceed the lesser of (A) the difference in interest rates betweeen the base rate and SBA's maximum acceptable rate as of the date the loan application was submitted by the lender to SBA, or (B) two and one-half (2½) percentage points. For loans with maturities of seven (7) or more years, the increase in interest to be added to the base rate may be arbitrarily established by the lender up to, but not to exceed, three (3) percentage points, without regard to SBA's maximum acceptable rate, except as to the limitation on the ini-

tial interest rate as provided in this subparagraph.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.012 Small Business Loans.)

Dated: March 20, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7930 Filed 3-24-78; 8:45 am]

[8025-01]

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for the Purpose of Government' Procurement for Protective Services

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This rule specifically defines a small business for the purpose of Government procurements for protective services. Current economic analysis on the distribution of market shares reveals a segment of the industry just exceeding the $2 million level whose competitive viability is threatened. The effect of the proposal will be an increase in the number of firms eligible to bid on set-aside procurements.

DATE: Written comments must be submitted by April 26, 1978.

ADDRESS ALL COMMENTS TO: John D. Whitmore, Size Standards Division, Small Business Administration, 1441 L. Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

John D. Whitmore, 202-653-6373.

SUPPLEMENTARY INFORMATION: This proposal was prompted by comments received from procurement officers, industry experts, and other interested parties.

Presently, those Protective Services firms within the current size standard of $2 million account for only 36.5 percent of the market share.

Janitorial Services is an industry with similar labor intensive characteristics and, with a size standard of $4.5 million, accounts for 47.6 percent of the market. The Protective Services size standard provides for a considerably lower market share.

The current standard of $2 million does not allow for assistance to that segment of the industry struggling to remain competitively viable. By virtue of receiving one Government set-aside, many firms no longer meet the size definition of a small business and, yet, are still struggling to remain competitive. The proposed $4 million standard will guarantee small business a more equitable market share comparable to the current janitorial level. In order to reflect the characteristics of this industry and the definition of small business applicable thereto, it is proposed to amend Section 121.3-8 of Part 121, Chapter I, Title 13, of the Code of Federal Regulations, by adding a new § 121.3-8(e)(17) to read as follows:

§ 121.3-8 Definition of small business for Government procurement.

* * * * *

(e) * * *

(17) Any concern bidding on a contract for protective services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $4 million.

Dated: March 20, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7931 Filed 3-24-78; 8:45 am]

[1505-01]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-AEA-9]

Proposed Designation of Transition Area: Chambersburg, Pa.

Correction

In FR Doc. 78-5897, appearing at page 9617 in the issue for Thursday, March 9, 1978, on page 9618 in the middle column under the centered heading "Chambersburg, Pa." in the third line "radius of the center, 39°58'23" N., 77°38'3"" should read "radius of the center, 39°58'23" N., 77°38'37"".

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10162, File No. S7-738]

PREVENTION OF UNLAWFUL ACTIVITIES WITH RESPECT TO REGISTERED INVESTMENT COMPANIES

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is publishing for comment a proposed rule under the Investment Company Act of 1940 ("Act") which would prohibit certain activities on the part of persons affiliated with registered investment companies or their investment advisers or principal underwriter. In addition, the proposed rule would require that such entities establish codes of ethics applicable to certain persons associated with them, and would require that these persons make specified reports regarding their securities transactions. This action is being taken in order to implement a provision of the Act which authorizes Commission rules to prevent fraudulent, deceptive, or manipulative practices on the part of certain persons in connection with the purchase or sale of securities held or to be acquired by a registered investment company.

DATES: Comments must be submitted on or before April 27, 1978.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All communications with respect to this matter should refer to File No. S7-738. Such communications will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Walter R. McEwen Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-4866.

SUPPLEMENTARY INFORMATION: Section 17(j) of the Act [15 U.S.C. 80a-17(j)] provides that:

It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of an investment adviser of or principal underwriter for a registered investment company, to engage in any act, practice, or course of business in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by such registered investment company in contravention of such rules and regulations as the Commission may adopt to define, and prescribe means reasonably necessary to prevent, such acts, practices, or courses of business as are fraudulent, deceptive or manipulative. Such rules and regulations may include requirements for the adoption of codes of ethics by registered investment companies and investment advisers of, and principal underwriters for, such investment companies establishing such standards as are reasonably necessary to prevent such acts, practices, or courses of business.

This provision was added to the Act in 1970,[1] after the Commission had recommended that it be empowered to adopt rules for the protection of investors in connection with trading in securities purchased and sold by investment companies by persons affiliated with them or their investment advisers or principal underwriters.[2] The Commission's recommendation in this regard was based upon its earlier finding that transactions by such persons in securities held by investment companies often placed such persons in a position of conflict of interest, and that the considerable disagreement in the investment company industry as to the nature and extent of obligations in this area suggested a need for clearer and higher standards.[3]

To implement Section 17(j), the Commission in 1972 proposed to adopt Rule 17j-1 under the Act [17 CFR 270.17j-1].[4] That proposed rule would have, among other things, defined fraudulent, deceptive or manipulative acts, practices or courses of business for purposes of Section 17(j), required certain persons to report their personal securities transactions and required investment companies and their investment advisers and principal underwriters to adopt codes of ethics. However, the Commission withdrew the proposed rule after a large number of objections to various provisions of it were raised in the public comments.[5] The revised proposed rule set forth in this release is designed to effectuate the purposes of Section 17(j) while avoiding certain features of the earlier version which public commentators found objectionable.

The Commission believes that the potential conflicts of interest discussed in the "Report of the Special Study of the Securities Markets" continue to exist with regard to transactions by affiliated persons of an investment company or its investment adviser or principal underwriter in securities purchased or sold by the investment company. Therefore, the Commission is proposing the present version of rule 17j-1, thereby prescribing a means which it believes is reasonably necessary to prevent fraudulent, deceptive or manipulative acts, practices, or courses of business in accordance with Section 17(j).

Like the earlier version, the present version of Proposed Rule 17j-1 contains a general anti-fraud provision with regard to trading by certain persons affiliated with investment companies or their investment advisers or principal underwriters in securities held by, or being considered for purchase on the part of, a registered investment company. Moreover, the present proposed rule, like the earlier one, would require that investment companies, investment advisers, and principal underwriters adopt and enforce codes of ethics to prevent violations of the anti-fraud provision. In addition, the present Proposed Rule 17j-1 is similar to the previous one in that it would require that "access persons," as defined in the rule,[6] of registered investment companies or their investment advisers or principal underwriters report their securities transactions to the company, adviser, or underwriter. The entity to which these reports must be made would have to identify its access persons and inform them of their duty to make the reports.

The proposed rule defines "security" to include any security of a class of securities of an issuer or any security convertible into a security of that class. In addition, a purchase, sale or writing of an option to purchase or sell a security would be regarded as a purchase or sale of the security itself, since the interest of persons who have purchased, sold, or written options could be affected by changes in the value of the underlying security.[7] However, the rule's definition of "security" would exclude securities which are issued by the Government of the United States or any instrumentality of the Government of the United States. It would seem that the value of such securities held by an individual could not be substantially affected by purchases or sales by an investment company.

It might be noted that the proposed rule's requirements concerning reporting of securities transactions and adoption of codes of ethics would not apply with regard to principal underwriters for investment companies where the underwriter is not affiliated with the company or its investment adviser, and none of the underwriter's officers, directors or general partners serves in such a capacity with the investment company or its investment adviser. Moreover, Proposed Rule 17j-1 would not reqire reports to investment advisers to the extent that the adviser is already required to record the pertinent information pursuant to Rule 204-2(a)(12) or 204-2(a)(13) [17 CFR 275. 204-2(a)(12) or 204-2(a)(13)] under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1, et seq.]. Similar exceptions were made in the original version of Proposed Rule 17j-1.

However, there are several major respects in which the present proposed rule differs from the earlier one. First, the present version does not contain any specific trading prohibitions. Instead, individual investment companies and their investment advisers and principal underwriters would be responsible for determining what standards and procedures are necessary to prevent affiliated persons who are access persons from engaging in the fraudulent or manipulative activities proscribed by the proposed rule, and for incorporating such standards and procedures into their codes of ethics. This approach is being taken in view of the arguments made by public commentators that the trading prohibitions set forth in the previous proposed rule could lead to difficulties of interpretation and administration.[8]

The precise nature of the standards and procedures which would have to be prescribed in a code of ethics in order to meet the requirements of the present version of Proposed Rule 17j-1 would depend upon the circumstances of the entity adopting the code, and the Commission believes that the determination can best be made by the investment company, its investment adviser and its principal underwriter. Such factors as the number and geographic location of access persons and the nature of an investment company's portfolio might be relevant in this regard.[9] It should be kept in mind that any code of ethics adopted in accordance with the rule must provide for procedures to prevent improper securities trading by access persons.

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[1] Pub. L. 91-547, effective Dec. 14, 1970.

[2] See Public Policy Implications of Investment Company Growth, H. Rep. No. 2337, 89th Cong., 2d Sess. 200 (1966).

[3] See Report of the Special Study of the Securities Markets, H.R. Doc. No. 95, 88th Cong., 1st Sess., pt. 4, at 235-55 (1963).

[4] Investment Company Act Release No. 7581, Dec. 26, 1972 (38 FR 2180, Jan. 22, 1973), File No. S7-469.

[5] Investment Company Act Release No. 9169, Feb. 19, 1976 (41 FR 8498, Feb. 27, 1976).

[6] In brief, "access person" means a director, officer, or general partner, or an employee whose functions or duties relate to the determination of what securities an investment company should purchase or sell.

[7] The inclusion of options within the proposed definition of security represents a departure from the earlier proposed rule.

[8] In substance, the earlier version of Proposed Rule 17j-1 would have prohibited an access person from trading in any security which he knew was being purchased or sold, or being considered or recommended for purchase or sale, by the investment company.

[9] Certain of the public comments suggested that the previous proposal's trading prohibition with respect to securities "being considered" for purchase or sale by an investment company was too broad, since investment company managers might give preliminary consideration to a wide variety of securities but in many cases reject the possibility of buying or selling a particular security before the consideration has reached an advanced stage. Under the rule being proposed herein, an investment company, adviser or underwriter could adopt a code of ethics defining advanced or active consideration.

Another difference between the current and earlier version of the proposed rule is that, under the current version, investment company directors who are not "interested persons," as defined in the Act, of the company would not be required to report their securities transactions unless the disinterested director had actual knowledge that, within the past 30 days, that security had been purchased or sold by the investment company, or such purchase or sale on the part of the company had been considered. It does not seem necessary to subject disinterested directors to reporting requirements as extensive as those applicable to other persons, since disinterested directors would, as a general matter, have less contact with an investment company's day-to-day operations than other access persons. In this connection, it was pointed out in a number of public comments concerning the earlier proposed rule that any unnecessary burden upon disinterested investment company directors should be avoided, so that highly qualified individuals would not be discouraged from serving in such a position.

Moreover, in response to suggestions made in earlier public comments, the present version of the proposed rule omits any specific requirement that violations of codes of ethics be reported to the Commission. However, investment companies and their investment advisers and principal underwriters would be required to preserve, for at least five years, both reports made by access persons and records of any violations of the code of ethics and action taken as a result of such violations. The reports and records would have to be made available to the Commission or its staff for examination.[10]

In addition, since the anti-fraud provision of Proposed Rule 17j-1 relates to securities "held or to be acquired" by a registered investment company, it seems appropriate to include a definition of that term in the proposed rule. Therefore, the proposed rule defines a "security held or to be acquired by a registered investment company" as a security which is being, or within the past 30 days has been, held by the investment company or considered by the company or its investment adviser for purchase by the company.[11]

Finally, the Commission recognizes that a certain period of time might be necessary for investment companies, investment advisers and principal underwriters to formulate and adopt appropriate codes of ethics. Therefore, it is proposed to make the rule effective six months after adoption.[12]

STATUTORY AUTHORITY: The proposed rule contained herein is issued pursuant to authority granted to the Commission in Sections 17(j) and 38(a) [15 U.S.C. 80a-17(j) and 80a-37(a)] of the Act.

It is proposed to amend Part 270, Title 17, Code of Federal Regulations by adding a new § 270.17j-1, reading as follows:

§ 270.17j-1 Certain unlawful acts, practices, or courses of business and requirements relating to codes of ethics with respect to registered investment companies.

(a) It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of an investment adviser of or principal underwriter for a registered investment company:

(1) To employ any device, scheme or artifice to defraud,

(2) To make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading,

(3) To engage in any act, practice, or course of business which operated or would operate as a fraud or deceit upon any person, or

(4) To engage in any manipulative practice in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired, as defined in this section, by such registered investment company.

(b)(1) Except as otherwise provided in this paragraph (b), every registered investment company, and each investment adviser of and principal underwriter for such a company, shall adopt a written code of ethics containing provisions reasonably necessary to prevent access persons, as defined in this section, of such company, investment adviser, or principal underwriter from engaging in any act, practice, or course of business prohibited by paragraph (a) of this section, and shall use reasonable diligence and institute procedures reasonably necessary to prevent and detect violations of such code.

(2) The requirements of this paragraph (b) shall not apply to any underwriter (i) which is not an affiliated person of any registered investment company or its investment adviser, and (ii) none of whose officers, directors, or general partners serves as an officer, director or general partner of such registered investment company or investment adviser.

(c)(1) Except as otherwise provided in this paragraph (c), every access person, as defined in this section, of a registered investment company or of an investment adviser, of, or principal underwriter for, such a company shall, within the time specified in paragraph (2) of this paragraph (c), report to each such company, investment adviser or principal underwriter the information described in such paragraph (2) with respect to transactions in any security as defined in this section in which such access person has, or by reason of such transaction acquires, any direct or indirect beneficial ownership in the security; *Provided however*, That any such report may contain a statement that it shall not be construed as an admission that the person making such report has any direct or indirect beneficial ownership in the security to which the report relates.

(2) Every report required to be made pursuant to this paragraph (c) shall be made not later than 10 days after the end of the calendar quarter in which the transaction to which the report relates was effected, and shall contain the following information:

(i) The date of the transaction and the title and amount of the security involved;

(ii) The nature of the transaction (i.e., purchase, sale or other acquisition or disposition);

(iii) The price at which the transaction was effected; and

(iv) The name of the broker, dealer or bank with or through whom the transaction was effected.

(3) Notwithstanding the provisions of paragraph (1) of this paragraph (c), no person shall be required to make a report of a transaction in any security pursuant to this paragraph:

(i) With respect to transactions effected in any account over which such person does not have any direct or indirect influence or control;

(ii) If such person is not an "interested person" of a registered investment company within the meaning of Section 2(a)(19) of the Act [15 U.S.C. 80a-2(a)(19)], and would be required to make such a report solely by reason of being a director of such company, except where such director has actual knowledge that, within the most recent 30 days, such security was purchased or sold by such company or such purchase or sale by such company was considered by the company or its investment adviser;

(iii) To the extent that such person would otherwise be required to make such a report by reason of being an

[10] Furthermore, although the proposed rule contains no specific requirement that codes of ethics be filed with the Commission, investment companies' codes of ethics would have to be filed with Form N-1R pursuant to Item 1.33.

[11] The term "security" would, of course, be subject to the definition included in the proposed rule.

[12] To the extent that codes of ethics adopted pursuant to the proposed rule might require access persons to adjust their personal securities portfolios, additional time might be required to make such adjustments. The codes of ethics could provide a reasonable period of time for this purpose.

access person of a principal underwriter for a registered investment company where such underwriter (A) is not an affiliated person of such company or any investment adviser of such company, and (B) has no officers, directors, or general partners who serve as an officer, director or general partner of such company or any such investment advisers; or

(iv) To the extent that such a report made to an investment adviser would duplicate information recorded pursuant to Rules 204-2(a)(12) or 204-2(a)(13) [17 CFR 275.204-2(a)(12) or 275.204-2(a) (13)] under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1, et seq.].

(4) Each registered investment company, investment adviser and principal underwriter to which reports are required to be made pursuant to this section shall identify all access persons who are under a duty to make such reports to it, and inform such persons of such duty.

(d) Each registered investment company, investment adviser and principal underwriter which is required to adopt a code of ethics or to which reports are required to be made by access persons pursuant to this section shall maintain records in the manner, and to the extent, set forth below in this paragraph (d), and shall make such records available to the Commission or any representative thereof at any time and from time to time for reasonable periodic, special or other examination.

(1) A copy of each such code of ethics which is, or at any time within the past five years has been, in effect shall be preserved in an easily accessible place;

(2) A record of any violation of such code of ethics, and of any action taken as a result of such violation, shall be preserved in an easily accessible place for a period of not less than five years following the end of the fiscal year in which the violation occurs;

(3) A copy of each report made by an access person pursuant to this section shall be preserved for period of not less than five years from the end of the fiscal year in which it is made, the first two years in an easily accessible place; and

(4) A list of all persons who are, or within the past five years have been, required to make reports pursuant to this section shall be maintained in an easily accessible place.

(e) As used in this section, (1) "Access person" means: (i) With respect to a registered investment company or an investment adviser thereof, any director, officer, general partner, or advisory person as defined in this section of such company or investment adviser; and

(ii) With respect to a principal underwriter, any director, officer, or general partner of such principal underwriter.

(2) "Advisory person" of a registered investment company or an investment adviser thereof means: (i) Any employee of such company or investment adviser who, in connection with his regular functions or duties, makes, participates in, or obtains information regarding the purchase or sale of a security by a registered investment company, or whose functions or duties relate to the making of any such recommendation; and

(ii) Any natural person in a control relationship to such company or investment adviser who obtains information concerning recommendations made to such company with regard to the purchase or sale of any security.

(3) "Purchase or sale of a security" includes the writing of an option to purchase or sell a security.

(4) "Security" means any security of a class of securities of an issuer (other than the Government of the United States) or any security convertible into a security of that class or any option to purchase or sell such security.

(5) "Security held or be be acquired by a registered investment company" means any security as defined in this section which is being, or within the past 30 days has been, (i) held by such company, or (ii) considered by such company or its investment adviser for purchase by such company.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 20, 1978.

[FR Doc. 78-7976 Filed 3-24-78; 8:45 am]

[7040-01]

SUSQUEHANNA RIVER BASIN COMMISSION

[18 CFR Part 803]

REVIEW OF PROJECTS

Establishment of Certain Standards Governing Groundwater Development

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of proposed regulation and public hearing.

SUMMARY: The Commission proposes to amend its regulations governing Review of Projects by adding a new section establishing certain requirements of groundwater developers. The regulation would require groundwater developers to meter withdrawals, monitor water table levels, report water quality information, develop a water conservation program, and undertake a program to minimize losses from any distribution system. The present lack of knowledge about groundwater conditions and availability makes current and future users vulnerable to groundwater shortages and contamination.

DATES: A public hearing to receive public comments has been scheduled for May 11, 1978, beginning at 2 p.m. Written comments must be submitted by May 31, 1978.

ADDRESSES: The public hearing will be held at the Penn Harris Motor Inn, By-Pass Routes 11 and 15, Camp Hill, Pa. Written comments should be sent to the Office of the Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102.

FOR FURTHER INFORMATION CONTACT:

Robert J. Bielo, Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102, 717-238-0422.

SUPPLEMENTARY INFORMATION: The Commission is proposing to adopt standards which would apply to all groundwater development in the Susquehanna River Basin. By providing the following information, the Commission hopes to encourage interested parties to offer meaningful comments on the proposed standards listed below.

The Susquehanna River Basin's groundwater resources serve three basic functions: Maintenance of base streamflow, the receiving waters of underground discharges and a source of water supply.

About 58 percent of the basin's population (or 2,030,000 residents) are dependent on groundwater for water supply, and demand is expected to increase over 40 percent in the next 20 years. Lack of knowledge about groundwater conditions and availability makes users vulnerable to groundwater shortages and contamination.

Generally, shortages result from groundwater pollution or water demand exceeding the aquifer's storage capacity. Presently, the data needed to identify and evaluate the basin's groundwater quantity and quality are unavailable. There is a need for a groundwater management program in an effort to minimize water shortages. Clearly, such a program is in the public's interest; particularly groundwater users.

The Commission has begun two efforts that it believes will generate the necessary information and public awareness to support development of a groundwater management program protecting present and future groundwater dependent activities. First, it is seeking funding to conduct a detailed groundwater investigation in the basin. As proposed, the program will

obtain groundwater data, for defining: (1) Base flows under low flow conditions, (2) safe yields of subbasins, (3) aquifer supply capacities and locations, and (4) the interrelationships between surface and groundwater quantity and quality. All of these factors need to be determined to evaluate the effects of groundwater use on water availability throughout the basin and to evaluate the fresh water inflow into the Upper Chesapeake Bay.

Second, the Commission through its project review program has been requiring groundwater developers to perform certain data collection and monitoring activities.

It has become apparent from the Commission's project review requirements that certain operational actions should be required of groundwater appropriators. Data collection and monitoring activities are the primary activities addressed by the proposed regulations set forth below.

In a related matter, the Commission is aware that the signatory parties do have permit programs regulating groundwater development for municipal and potable use. However, the data collection requirements of these programs do not produce sufficient information for developing and administering a groundwater management program. To prevent duplication of agency efforts and avoid conflicts, the Commission will amend its agreements of understanding with signatory agencies for cooperative review, if the standards proposed herein are adopted. Under the agreements, the standards, if adopted, would be applied to and made a condition of permits issued by the signatory agencies relative to water use involving groundwater withdrawals.

Requirements related to conservation of water and minimizing water losses from distribution systems are also included in the draft regulations. These reiterate previously announced Commission policy. Both matters affect demands on the basin's groundwater resources and, thus, are appropriate elements of the regulations.

Under the authority of Sections 3.4(a), 3.10, and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq., the Commission proposes that Chapter VIII of Title 18 of the Code of Federal Regulations be amended by adding to Part 803, Subpart D, a new section to read as follows:

§ 803.62 Ground water withdrawals.

Any project sponsor proposing to withdraw groundwater from a single well or a well field in excess of 100,000 gpd or proposing to increase an existing withdrawal to more than 100,000 gpd shall comply with the following requirements:

(a) *Drilling report.* Upon completion of the production well(s) the project sponsor shall supply the Commission with a report for each production well that includes: drillers' log, well drilling method, depth to which the casing was set, the inside diameter of the casing, diameter of the well bore, how the well was completed, screen size and length (if any), depth to water yielding zones, approximate yield from each zone, and location on a U.S.G.S. topographic map.

(b) *Pumping test.* The project sponsor shall conduct a minimum 24-hour constant yield or step drawdown pumping test on the production well(s) during a period of time of average or below average seasonal streamflow conditions. In general, water levels in the pumped and one or more properly spaced, hydraulically connected observation well(s) shall be recorded on a prescribed time schedule during the test and for an equal period of time following the test, as prescribed by the Commission or by the appropriate agencies of the Commission's signatory bodies. Review and approval by the Susquehanna River Basin Commission of the test procedures to be used by the applicant is necessary before the test is started. The pumping rate, the drawdown and recovery water level data shall be furnished by the project sponsor upon completion of the test and no later than one year after approval of the application.

(c) *Metering.* Groundwater users shall meter and record their daily well production. The records shall be transmitted to the Commission annually.

(d) *Monitoring.* Groundwater users shall monitor groundwater levels monthly in one or more observation wells (if available) in the area of the production well. This will indicate the range of natural seasonal fluctuation in groundwater levels and trends that may result from droughts, over pumpage of the aquifer and the affects of man's activity in the recharge areas. The observation well should be in the same aquifer as the production well. Groundwater levels are to be measured to one-tenth of a foot, with actual depth of water related to a land surface datum line. Groundwater levels recorded by the user shall be reported to the Commission annually.

(e) *Water quality.* The groundwater users shall sample and analyze the raw water supply for submittal with the application and every three years thereafter. The water quality analyses shall include the following parameters: Conductance (micromhos at 25° C), pH, Arsenic (As), Aluminum (Al), Cadmium (Cd), Carbon Chloroform Extract (Cce), Calcium (Ca), Chloride (Cl), Hardness (Total), Iron (Fe), Manganese (Mn), Magnesium (Mg), Nickel (Ni), Nitrate (NO_3), Potassium (K), Sodium (Na), Sulfate (SO_4), Flouride (F), Dissolved Solids (Residue on evaporation at 180° C), Zinc (Zn).

If the groundwater will be used for potable purposes additional sampling and analyses shall be conducted which will conform with the National Primary Drinking Water Regulations.

(f) *Conservation.* Groundwater users shall develop a conservation program appropriate to their use that includes improved utilization of water through recycling, devices to reduce usage, quantities and frequencies, and other measures to reduce water demand. The proposed conservation program shall be submitted to the Commission for review and approval within one year following approval of the groundwater development by either the State or Commission.

(g) *System losses.* Groundwater users with a distribution system shall undertake a program to continuously monitor for and correct any system leaks to reduce and keep losses from the system to a minimum. This may be accomplished through metering the distribution system and, ideally, customer use. The project sponsor shall submit annual reports to the Commission accounting the measures taken to monitor and correct detected system leaks.

Dated: March 15, 1978.

ROBERT J. BIELO,
Executive Director.

[FR Doc. 78-7959 Filed 3-24-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 871-5; PP 7E1933/P65]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Methomyl

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

ACTION: Proposed rule.

SUMMARY: This notice proposes that the insecticide methomyl be used on Bermuda grass and grass hay. The proposal was submitted by the Interregional Research Project No. 4. This amendment will establish maximum permissible levels for residues of methomyl on Bermuda grass and grass hay.

DATE: Comments must be received on or before April 26, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (MH-569), Office of Pesticide

Programs, EPA, Rm. 401, East Tower, 401 M Street SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-2516.

SUPPLEMENTARY INFORMATION: Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of North Carolina has submitted a pesticide petition (PP 7E1933) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.253 be amended by the establishment of tolerances for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities Bermuda grass at 10 parts per million (ppm) and Bermuda grass hay (dried and dehydrated) at 40 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 10 ppm and 40 ppm established by amending 40 CFR 180.253 will protect the public health.

The toxicological data considered in support of the proposed tolerance included a two-year dog-feeding study with a no-effect level (NEL) at 100 ppm and a two-year rat-feeding study with an NEL at 100 ppm, a three-generation rat reproduction study with an NEL at 100 ppm, and a negative neurotoxicity test. A second oncogenicity test is missing and the teratology test must be repeated due to deficiencies in the protocol. However, it was concluded that no residues are likely to result in milk, meat, fat, or meat byproducts of cattle, goats, hogs, horses, poultry, or sheep as delineated in 40 CFR 100.6(a)(3). Thus, there will be no exposure to humans from the proposed use on Bermuda grass and grass hay. The acceptable daily intake (ADI) is 0.025 milligram/kilogram of body weight although this figure has no direct bearing on the proposed tolerances because the maximum theoretical residue contribution (MTRC) is not increased by these tolerances.

Tolerances have previously been established (40 CFR 180.253) for residues of methomyl on a variety of raw agricultural commodities at levels ranging from 10 ppm to 0.2 ppm. An adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before April 26, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E1933/P65". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the FEDERAL REGISTER from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: March 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, § 180.253 be amended by alphabetically inserting in the table the tolerances of 10 ppm in or on Bermuda grass and 40 ppm in or on dried and dehydrated Bermuda grass hay to read as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
* * * * *	
Grass, Bermuda	10
Grass, Bermuda, hay (dried and dehydrated)	40
* * * * *	

[FR Doc. 78-7904 Filed 3-24-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 871-4]

[40 CFR Part 257]

PROPOSED CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES

Notice of Hearings and Rescheduled Meeting

AGENCY: Environmental Protection Agency.

ACTION: Announcement of hearings and rescheduled meeting on proposed regulations.

SUMMARY: The Environmental Protection Agency announces a series of public hearings to be held regarding the proposed criteria for the classification of solid waste disposal facilities. The purpose of these hearings is to gather information and data relevant to the regulation of these facilities. The Agency also announces a change in a previously scheduled meeting.

DATES: Public hearings: April 21, 1978, Washington, D.C.; April 24, 1978, Kansas City, Mo.; April 26, 1978, Portland, Oreg. Meeting: April 28 and 29, 1978; St. Louis, Mo.

ADDRESSES: Hearings: April 21, 1978, GSA Building, Main Auditorium, 18th and F Streets NW., Washington, D.C.; April 24, 1978, Muehlebach Hotel, 12th Street and Baltimore, Kansas City, Mo.; April 26, 1978, Sheraton Hotel, 1000 Northeast Multnomah, Portland, Oreg. Meeting: Stouffer's Riverfront Towers, Eugene Field Room, 200 South 4th Street, St. Louis, Mo.

FOR FURTHER INFORMATION CONTACT:

Mrs. Gerri Wyer, Public Participation Officer, Office of Solid Waste, U.S. EPA (WH-562), Washington, D.C. 20460, phone 202-755-9157.

SUPPLEMENTARY INFORMATION: On February 6, 1978, the Environmental Protection Agency published in the FEDERAL REGISTER the proposed regulation "Criteria for Classification of Solid Waste Disposal Facilities" (43 FR 4942).

The proposed regulation contains minimum criteria for determining which solid waste disposal facilities shall be classified as posing no reasonable probability of adverse effects on health or the environment. The regulation is required by Sections 1008(a)(3) and 4004(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580). Under Sections 4005(c) and 4003 (2) and (3) of this Act, all facilities which do not meet these Criteria are prohibited. Any existing facility not meeting these criteria must be closed or upgraded according to a State-established compliance schedule containing an enforceable sequence of actions leading to compliance.

Since the regulation covers the disposal and utilization of sludges on land, it was also proposed as partial fulfillment of Section 405(d) of the Federal Water Pollution Control Act (FWPCA), as amended by the Clean Water Act of 1977 (Pub. L. 95-217). Under Section 405(e) of FWPCA, the owner or operator of any publicly owned wastewater treatment works must use or dispose of sludge in accordance with these Criteria, if the owner or operator chooses to use or dispose of sludge on land.

The proposed regulation has been published in order to allow opportuni-

ty for the public to review it and submit comments to the Agency. All comments received which are postmarked on or before May 8, 1978, will be considered by the Agency in the final promulgation of the regulation.

In order to provide further opportunity for the public to make its views known, the Agency will hold a series of meetings and hearings on the proposed regulation. On February 27, 1978, the Agency published in the FEDERAL REGISTER (43 FR 7989) a detailed schedule of the meetings to be held. Similar information is now available on the public hearings.

HEARINGS SCHEDULE

APRIL 21, 1978

GSA Building, Main Auditorium, 18th and F Streets NW., Washington, D.C., 9 a.m. to 5 p.m. Registration 8:30 to 9 a.m.

APRIL 24, 1978

Muehlebach Hotel, 12th Street and Baltimore, Kansas City, Mo., 1 p.m. to 5:30 p.m. and 7 p.m. to 10:30 p.m. Registration 12:30 to 1 p.m. and 6:30 to 7 p.m.

APRIL 26, 1978

Sheraton Hotel, 1000 Northeast Multnomah, Portland, Oreg. 1 p.m. to 5:30 p.m. and 7 p.m. to 10:30 p.m. Registration 12:30 to 1 p.m. and 6:30 to 7 p.m.

HEARINGS PROCEDURES

Witnesses at the hearings may submit written testimony and/or deliver an oral statement of up to ten minutes in length. The number of witnesses desiring to be heard may require adjustment of the amount of time allotted to each. Additional time will be reserved for questions and comments from a panel of experts and written questions from the audience.

Requests to participate in the hearings should be directed to the address provided below. Such requests must be received prior to the close of business (4:30 p.m.) five working days preceding the date of the hearing. Requests must include the names, addresses, and phone numbers of individuals or organizations seeking to make a public statement; the choice of public hearing location; and an estimate of the time required to make the statement. At least one legible copy of the prepared statement must be provided to the Agency at the time of the public hearing.

CHANGE IN SCHEDULED MEETING

The previously published (43 FR 7989) schedule of meetings included an April 28 meeting in St. Louis, Mo. The meeting was scheduled for 9 a.m. to 5 p.m. In order to allow additional time for discussion, this meeting will extend into a second session on April 29. The second session will last from 8:30 a.m. until 12 noon.

Dated: March 16, 1978.

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

[FR Doc. 78-7971 Filed 3-24-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

[41 CFR Part 9-1]

ORGANIZATIONAL CONFLICTS OF INTEREST

AGENCY: Department of Energy.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation would establish policy and procedures for the Department of Energy (the "Department") with respect to the avoidance of organizational conflicts of interest. The regulation is intended to avoid or mitigate contractual relationships which might lead contractors to give advice and assistance that is not unbiased, impartial, objective and technically sound. Additionally, it seeks to reduce the opportunities for an unfair competitive advantage that might accrue to a contractor. These objectives are sought to be attained by requiring prospective contractors to disclose pertinent information bearing upon possible organizational conflicts of interest and by requiring the inclusion of specified contract clauses designed to prevent such conflicts during and after performance.

DATE: Comments must be received on or before April 26, 1978 to be considered.

ADDRESS: Comments should be addressed to the Office of Public Hearing Management, Department of Energy, Box SM, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Martin Kestenbaum, Acting Director, Policy and Procedures Division, Procurement and Contracts Management Directorate, Washington, D.C. 20545, Room C-167, telephone: 301-353-4543.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Procedures for receiving written comments.
A. Written comment procedure.
B. Statutory and regulatory requirements.

I. BACKGROUND

Under Section 644 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. These functions include those heretofore authorized by law and transferred to the Secretary under the said Act (42 U.S.C. 7251), including the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577, 88 Stat. 1878, 42 U.S.C. 5901), as amended by Pub. L. 93-39, and the Federal Energy Administration Act of 1974 (Pub. L. 93-275, 88 Stat. 96, 15 U.S.C. 761), as amended by Pub. L. 95-70. Pursuant to these laws, the Secretary is specifically required to promulgate regulations governing the avoidance of organizational conflicts of interest in accordance with statutory criteria therein set forth (Pub. L. 95-39; Pub. L. 95-70). Additionally, public notice of such rules and regulations is required by the said Act (42 U.S.C. 7191) in accordance with the Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

On June 24, 1977, the Energy Research and Development Administration (ERDA), whose functions were transferred to the Department by the aforesaid Act (Pub. L. 95-91), published in the FEDERAL REGISTER (42 FR 32232), ERDA Temporary Regulation No. 35, which amended the pertinent ERDA organizational conflicts of interest regulation then in effect.

The proposed regulation reflects the Department's efforts to comply with statutory criteria contained in Pub. L. 95-39 and Pub. L. 95-70. Also, the proposed regulation reflects, to the greatest extent consistent with statutory requirements and policy and programmatic needs, the opinions and recommendations expressed by interested parties commenting on ERDA Temporary Regulation No. 35. The proposed regulation also take cognizance of the organizational conflict of interest regulation proposed by the Office of Management and Budget (OMB), Office of Federal Procurement Policy, and published in the FEDERAL REGISTER on September 30, 1977, (42 FR 47223) for use by all Federal executive agencies.

The proposed regulation will also be incorporated into a proposed complete version of the Department of Energy Procurement Regulations which will be published in the FEDERAL REGISTER for public comment in the near future. However, the more detailed background information and the procedures which will govern public comment for the proposed regulation are contained in this notice.

II. PROCEDURES FOR RECEIVING WRITTEN COMMENTS

A. WRITTEN COMMENT PROCEDURE

Interested persons are invited to participate by submitting data, views or

arguments with respect to the proposed regulation set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Organizational Conflicts of Interest Comments." Ten copies should be submitted. All comments will be available for public inspection at the Department of Energy Freedom of Information Reading Room, Room 2107, 12th & Pennsylvania Ave., NW., Washington, D.C. between 8 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays.

B. STATUTORY AND REGULATORY REQUIREMENTS

To the extent that section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) relating to the opportunity for oral presentation is applicable to the proposed regulation, our preliminary view is that no substantial issue of fact or law exists and that this proposed regulation is unlikely to have a substantial impact on the Nation's economy, or large numbers of individuals or businesses. Therefore, at this time, we do not propose to hold public hearings on this proposed regulation. All written comments received will be carefully assessed and fully considered prior to publication as a final regulation. However, a final determination of whether there should be an opportunity for the presentation of oral views will be made after an evaluation of the comments on the proposed regulation, and consideration of the views of those requesting an opportunity for oral presentations.

NOTE.—The Department has determined that this proposed regulation does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107. The Department has also determined that the proposed regulation will not affect the quality of the environment and that the reqirements of section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

For the Department of Energy.

Dated: March 22, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

The following Subpart 9-1.54 is now proposed for comment and will appear again as part of the proposed complete Department of Energy's procurement regulations to be published in the FEDERAL REGISTER in the near future.

Subpart 9-1.54 Organizational Conflicts of Interest

Sec.
9-1.5401 Scope of subpart.
9-1.5402 Policy.
9-1.5403 Definitions.
9-1.5404 Criteria for recognizing organizational conflicts of interest.
9-1.5405 Disclosure and representation.
9-1.5406 Contract clauses.
9-1.5406-1 General contract clause.
9-1.5406-2 Special contract provisions.
9-1.5407 Evaluation, findings, and contract award.
9-1.5408 Conflicts identified after award.
9-1.5409 DOE management contractors, subcontractors and consultants.
9-1.5410 Architect-engineer services.
9-1.5411 Subcontracts.
9-1.5412 Remedies.

AUTHORITY.—Section 644 of the Department of Energy Organization Act (Pub. L. 95-91) to implement the requirements of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), as amended, and the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended.

Subpart 9-1.54—Organizational Conflicts of Interest

§ 9-1.5401 Scope of subpart.

This subpart sets forth Department of Energy (the "Department") policies and procedures regarding organizational conflicts of interest and is issued pursuant to section 644 of the Department of Energy Organization Act (Pub. L. 95-91) to implement the requirements of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. l. 93-577), as amended, and the Federal Energy Administration Act of of 1974 (Pub. l. 93-275), as amended.

§ 9-1.5402 Policy.

It is the policy of the Department to identify and avoid or mitigate organizational conflicts of interest before entering into contracts, agreements, and other arrangements.

§ 9-1.5403 Definitions.

(a) The term "organizational conflicts of interest" means that a situation or relationship exists whereby an offeror or a contractor (including proposed consultants or subcontractors) has present or planned interests related to the work to be performed under a Department contract which (1) may diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in it being given and unfair competitive advantage.

(b) The term "research and development" means any scientific or technical work the principal purpose of which involves (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes including the experimental production and testing of models, devices, equipment, materials, and processes.

(c) The term "evaluation services or activities" means any work or effort the principal purpose of which involves the independent study of a technology, process, product, or policy which entails the assessment, appraisal, or survey of such technology, process, product, or policy.

(d) The term "technical consulting and management support services" means any work or effort the principal purpose of which is to provide internal assistance to any program element or other organizational component of the Department in the formulation or administration of its programs, projects, or policies which normally requires the contractor to be given access to internal or proprietary information. Such services typically include assistance in the preparation of program plans; evaluation, monitoring or review of contractors' activities or proposals submitted by prospective contractors; preparation of preliminary designs, specifications, or statements of work.

(e) The term "architect-engineer services" means the work or effort of a professional nature associated with the study, tests, design, supervision, and construction, alteration, or repair of real property including utilities and appurtenances thereto. Such services embrace conceptual design and Title I, Title II, and Title III work, as defined in § 9-18.306-50(b).

(f) The term "contract" means any contract, agreement, or other arrangement with the Department.

(g) The term "contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliates thereof, which is a party to a contract with the Department.

(h) The term "affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both, (see 41 CFR § 1-1.601-1(e)).

(i) The term "subcontractor" means any subcontractor of any tier which performs work under a contract.

(j) The term "offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliates thereof, submitting a bid or proposal, solicited or unsolicited to the Department to obtain a contract or modification thereof.

§ 9-1.5404 Criteria for recognizing organizational conflicts of interest.

(a) *General.* Two questions should generally be asked in determining whether organizational conflicts of interest exist: (1) Are there conflicting roles which might bias a contractor's judgment in relation to its work for the Department? (2) Is the contractor being given an unfair competitive advantage based on the performance of

the contract? The ultimate determination as to whether organizational conflicts of interest exist should be made in the light of common sense and good business judgment based upon the relevant facts and the work to be performed. While it is difficult to identify, and to prescribe in advance, a specific method for avoiding all the various situations or relationships which might involve potential organizational conflicts of interest, Department personnel must pay particular attention to proposed contractual requirements which call for the rendering of advice, consultation or evaluation services, or similar activities that lay direct groundwork for the Department's decisions on future procurements, research and development programs, production, and regulatory activities.

(b) *Situations or relationships involving organizational conflicts of interest.* The following examples (which are not all-inclusive) illustrate situations or relationships where potential organizational conflicts of interest frequently arise.

(1) Contract performance involving the preparation and furnishing of complete or essentially complete specifications which are to be used in a competitive procurement for the furnishing of products or services.

(2) Contract performance involving the preparation and furnishing of a detailed plan for specific approaches or methodologies that are to be incorporated in a competitive procurement.

(3) Contract performance involving access to internal information concerning Department plans or programs and related opinions, clarifications, interpretations, and positions.

(4) Contract performance involving access to proprietary information which cannot be used for purposes other than those authorized by the owners.

(5) Contract performance involving evaluation of the contractor's products or services, or the products or services of another party where the contractor is or has been substantially involved in their development or marketing.

(6) Contract performance which results in benefits to a particular industry even though the contractor, as a part of the industry, would receive no more benefits than any other member of the industry.

(c) *Other considerations.* (1) The fact that the Department can identify and later avoid or mitigate any possible organizational conflicts arising from the performance of a contract is not relevant to a determination prior to award of the existence of such conflicts.

(2) It is not relevant that the contractor has the professional reputation of being able to resist temptations which arise from organizational conflicts of interest, or that a follow-on procurement is not involved, or that a contract is awarded on a competitive or a sole source basis.

§ 9-1.5405 Disclosure and representation.

(a) The following procedures are designed to assist the contracting officer in determining whether situations or relationships exist which may constitute organizational conflicts of interest with respect to a particular offeror or contractor.

(b) *Disclosure procedure.* The following Organizational Conflicts of Interest Disclosure provision shall apply to solicitations and unsolicited proposals for (1) evaluation services or activities; (2) technical consulting and management support services; (3) research and development conducted pursuant to the authority of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and included in the resulting contract. This disclosure requirement shall also apply to all modifications of contracts of the types noted above except those issued under the "Changes" clause. Where, however, a disclosure statement of the type required by the Organizational Conflicts of Interest Disclosure provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required.

ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE

It is Department of Energy policy to avoid situations which place an offeror in a position where its judgment may be biased because of any present or planned interest, financial or otherwise, the offeror may have which relates to the work to be performed pursuant to this solicitation or where the offeror's performance of such work may provide it with an unfair competitive advantage. (As used herein, "offeror" means the proposer or any of its affiliates or proposed consultants or subcontractors). Therefore:

(a) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any present or planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to (a) being able to render impartial, technically sound, and objective assistance or advice, or (b) being given an unfair competitive advantage.

(b) In the absence of any interest referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such interest exists.

(c) The Department will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to the Department, will be used to determine whether an award to the offeror may create an organizational conflict of interest. If such organizational conflict of interest is found to exist, the Department may (i) impose appropriate conditions which avoid such conflict, (ii) disqualify the offeror, or (iii) determine that it is otherwise in the best interests of the United States to contract with the offeror by including appropriate conditions mitigating such conflict in the contract awarded.

(d) The refusal to provide the statement or any additional information required shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest, unless determined to be of minor consequence by the contracting officer, may also result in the disqualification of the offeror for award, or if such nondisclosure or misrepresentation is discovered after award the resulting contract may be terminated at no cost to the Government or for default. The offeror may also be disqualified from subsequent related Department contracts, and be subject to such other remedial action as may be permitted or provided by law or in the resulting contract. The attention of the offeror in complying with this provision is directed to 18 U.S.C. 1001.

(c) *Representation procedure.* Except where the disclosure of § 9-1.5405(b) is required or utilized, the following Organizational Conflicts of Interest Representation provision shall apply to (1) all solicitations, modifications, and unsolicited proposals which may exceed $100,000 in value, and (2) all solicitations and proposals for research and development contracts which are not subject to the disclosure requirements of the Federal Energy Administration Act of 1974, as amended.

ORGANIZATIONAL CONFLICTS OF INTEREST REPRESENTATION

(a) The offeror represents, to the best of his knowledge and belief, that:

The award to him of a contract, or the modification of an existing contract, does ( ) or does not ( ) involve a possible organizational conflict of interest as defined in 41 CFR § 9-1.5403(a).

(b) If the representation as completed indicates that a possible organizational conflict of interest exists, or the contracting officer or selection official, as appropriate, nevertheless determines that a possible organizational conflict exists, the offeror shall provide a statement in writing which describes, in a concise manner, all relevant facts bearing on his representation to the contracting officer. If the appropriate official determines that an organizational conflict exists, he may (i) impose appropriate conditions which avoid such conflict, (ii) disqualify the offeror, or (iii) determine that it is otherwise in the best interests of the United States to contract with the offeror by including appropriate conditions mitigating such conflict in the contract awarded.

(c) When a solicitation involves a formally advertised procurement and the representation of the otherwise successful offeror indicates a possible organizational conflict of interest, the offeror shall provide a statement in writing which describes in a concise manner all relevant facts bearing on his representation to the contracting officer. The contracting officer will consider such facts and other relevant information and will determine whether a conflict exists and if so, the offeror shall be determined to be nonresponsible.

(d) The refusal to provide the representation of subsection (a), or, upon request of

the contracting officer, or the relevant facts required by subsections (b) or (c), shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest, unless determined to be of minor consequence by the contracting officer, may also result in the disqualification of the offeror for award, or if such nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated at no cost to the Government or for default. The offeror may also be disqualified for subsequent related Department contracts, and be subject to such other remedial actions as may be permitted or provided by law or in the resulting contract.

(d) Depending on the nature of the contract activities, the offeror may, because of possible organizational conflicts of interest, propose to exclude specific kinds of work from the statement of work contained in a solicitation, unless the solicitation specifically prohibits such exclusion. Any such proposed exclusion by an offeror shall be considered by the Department in the evaluation of proposals, and if the Department considers the proposed excluded work to be an essential or integral part of the required work, the proposal may be rejected as unacceptable.

(e) Failure to execute the representation required by subsection (c) above with respect to invitation for bids will be considered to be a minor informality and the offeror will be permitted to correct the omission prior to award.

§ 9-1.5406 Contract clauses.

§ 9-1.5406-1 General contract clause.

Except where a special clause has been determined to be appropriate, all contracts shall include the following clause:

ORGANIZATIONAL CONFLICTS OF INTEREST—GENERAL

(a) The contractor warrants that, to the best of his knowledge and belief, and except as otherwise set forth in this contract, he does not have any organizational conflicts of interest, as defined in 41 CFR § 9-1.5403(a).

(b) The contractor agrees that, if after award he discovers organizational conflicts of interest with respect to this contract, he shall make an immediate and full disclosure in writing to the contracting officer which shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The Department may, however, terminate the contract for its convenience if it deems such termination to be in the best interests of the Government.

(c) In the event that the contractor was aware or should have been aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the contracting officer, the Department may either terminate the contract at no cost to the Government or for default.

(d) The provisions of this clause shall be included in all subcontracts and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the Government's rights.

§ 9-1.5406-2 Special contract provisions

(a) If it is determined from the nature of the proposed contract that a potential organizational conflicts of interest may exist, the contracting officer may determine that such conflict can be avoided through the use of an appropriate special contract provision. If appropriate, the prospective contractor may be given the opportunity to negotiate the terms and conditions of such contractual provisions including the extent and time period of any restriction. Examples of the provisions which may be employed include but are not limited to the following:

(1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and/or certain of his key personnel) to avoid certain organizational conflicts of interest; and

(4) Clauses which provide for the protection of the confidentiality of data and guard against its unauthorized use.

(b) Contracts for technical consulting and mnagement support services, as defined in § 9-1.5403(d), are potentially susceptible to organizational conflicts of interest. Therefore, the following contract clause shall be included in all contracts for technical consulting and management support services. This clause, after any appropriate modification, may also be included in any contract for evaluation services and activities as defined in § 9-1.5403(c):

ORGANIZATIONAL CONFLICTS OF INTEREST

(a) *Purpose.* The primary purpose of this clause is to aid in ensuring that the Contractor (1) is not biased because of its current or planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) *Scope.* The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as the "Contractor") in the activities covered by this clause as a prime contractor, subcontractor, Co-sponsor, joint venturer, consultant, or in any similar capacity.

(1) *Technical Consulting and Management Support Services.* (i) The Contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefor (solicited or unsolicited) which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any technical consulting or management support services work under this contract on any of its products or services or the products or services of another firm if the Contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for technical consulting and management support services.

(ii) If the Contractor under this contract prepares a complete or essentially complete statement of work or specifications, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard commercial items to the Government.

(2) *Access to and Use of Information.* (i) If the Contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released to the public, the Contractor agrees not to: (a) Use such information for any private purpose unless the information has been released to the public; (b) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract, or the release of such information to the public, whichever is first; (c) submit an unsolicited proposal to the Government which is based on such information until one year after the release of such information to the public; and (d) release such information without prior written approval by the Contracting Officer unless such information has previously been released to the public by the Department.

(ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (P.L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The Contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it first produces under this contract for its private purpose provided that, as of the date of such use, all requirements of this contract have been met.

(c) *Disclosure after Award.* (1) The Contractor agrees that if after award he discovers an organizational conflicts of interest with respect to this contract, he shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or proposes to take to avoid or mitigate such conflicts. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interests of the Government.

(2) In the event that the contractor was aware or should have been aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflicts to the contracting officer, the Department may either terminate the con-

tract at no cost to the Government or for default.

(d) *Subcontracts.* The Contractor shall include this clause, including this paragraph, in subcontracts of any tier which involve performance of work of the type specified in (b)(1) above or access to information of the type covered in (b)(2) above. The terms "contract", "contractor" and "contracting officer", shall be appropriately modified to preserve the Government's rights.

(e) *Remedies.* For breach of any of the above restrictions of for nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract, the Government may terminate the contract at no cost, for default, disqualify the Contractor for subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.

(f) *Waiver.* Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer shall grant such waiver.

§ 9-1.5407 Evaluation, findings, and contract award.

(a) The contracting officer or selection official, as appropriate, shall evaluate all relevant facts submitted by an offeror pursuant to the disclosure requirements of § 9-1.5405 (b) and (c) and such other relevant information as may be available concerning possible organizational conflicts of interest. After evaluating all such information in accordance with the criteria of § 9-1.5404 and prior to any award, a finding shall be made by the contracting officer whether possible organizational conflicts of interest exist with respect to a particular offeror or whether there is little or no likelihood that such conflicts exist. If the finding indicates that such conflicts exist, then the contracting officer shall either:

(1) Disqualify the offeror from award;

(2) Avoid such conflicts by the inclusion of appropriate conditions in the resulting contract; or

(3) If such conflicts cannot be avoided by an appropriate contract provision, and the Secretary or his designee has nevertheless determined that award of the contract to the offeror is in the best interest of the United States, award the contract. Where such a public interest determination is made, a written statement to that effect shall be placed in the contract file and an appropriate clause included in the contract to mitigate the conflict, to the extent feasible prior to any award.

(b) Examples of circumstances justifying the determination permitted by § 9-1.5407(a)(2) include but are not limited to:

(1) Situations where the public exigency will not otherwise permit; and

(2) Situations where the work or services cannot otherwise be obtained.

§ 9-1.5408 Conflicts identified after award.

If after award a possible organizational conflict of interest is identified by the contractor or other sources and the contracting officer determines that such a conflict does in fact exist and that it would not be in the best interests of the Government to terminate the contract as provided in the clauses required by § 9-1.5406, the contracting officer shall take every reasonable action to avoid or mitigate the effects of the conflict.

§ 9-1.5409 DOE management contractor, subcontractors and consultants.

The missions and functions of the Department require the use of contractors to operate and manage the Department's facilities on a long-term basis pursuant to Part § 9-50. Where such an operating contract is to be renewed, the contracting officer should exercise special care in incorporating an appropriate organizational conflicts of interest provision therein. Whenever an operating contract is not to be renewed, but a new selection is to be made, the disclosure requirement of § 9-1.5405(b) and an appropriate clause should be included in the solicitation and resulting contract. In preparing such clause, the contracting officer shall consider provisions which assure appropriate restraints on inter-corporate relations between the contractor's organization and personnel operating the Department's facility and its parent corporate body and affiliates, including personnel access to the facility, technical transfer of information from the facility, and the availability from the facility of other advantages flowing from performance of the contract. The subcontractors and consultants of Department operating contractors should be, to the extent feasible, made subject to the requirements of this subpart as if they were performing the work as prime contracts to the Department.

§ 9-1.5410 Architect-engineer services.

(a) The award of related architect-engineer services and construction contracts to the same contractor can result in self-inspection of construction work and permit the contractor to render biased decisions. Such contract awards shall not be permitted unless a waiver is obtained prior to award from the Department's senior procurement official.

(b) The award of architect-engineer services contracts, the principal purpose is to provide evaluation services and activities or technical consulting and management support services, shall be subject to the requirements of §§ 9.5405(b) and 9-1.5406(b).

§ 9-1.5411 Subcontracts.

The contracting officer shall require offerors and contractors to obtain a disclosure or representation in accordance with subsection § 9-1.5405 (b) and (c) from subcontractors and consultants; except that subcontracts or agreements with consultants awarded under contracts requiring the disclosure of § 9-1.5405(b) shall not normally be required to submit the disclosure of that subsection if such subcontract of consultant agreement is for supplies. The contracting officer shall assure that contract clauses in accordance with § 9-1.5406 are included in consultant agreements or in subcontracts invloving performance of work under a prime contract covered by this subpart.

§ 9-1.5412 Remedies.

In addition to such other remedies as may be permitted by law or contract, for a breach of any of the restrictions in this subpart or for nondisclosure or misrepresentation of any relevant interest required to be disclosed by this subpart, the Department may disqualify the contractor for subsequent Department contracts.

[FR Doc. 78-8005 Filed 3-24-78; 8:45 am]

[6820-26]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

[41 CFR Part 101-11]

RECORDS MANAGEMENT

Micrographics Management

AGENCY: National Archives and Records Service, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: This rule expands the regulations of the General Services Administration to include Federal agency responsibilities in establishing, documenting, and maintaining a program for micrographics management. It also updates the quality control standards to reflect current microfilming practices within the Federal Government. Recent evaluations of agency micrographics programs and increasing numbers of telephonic requests for information and assistance reflect a need to provide standards and guidance for agencies in setting up an internal agency management program for micrographics. Expanded application of micrographics technology has increased the need for quality control standards and for guidelines for applying this technology to records systems

dealing with active and nonpermanent records for more efficient and cost effective micrographics programs. This proposed regulation addresses these needs.

DATE: Comments must be received on or before May 26, 1978.

ADDRESS: Submit comments to: Carl Scheerer, Program Operation Division, Office of Records Management, General Services Administration (NR), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT:

Carl Scheerer, Program Operations Division, Office of Records Management, General Services Administration (NR), Washington, DC 20408, 202-376-8801.

The table of contents for Part 101-11 is amended by adding or revising the following entries:

Subpart 101-11.5—Micrographics

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101-11.500 Scope of subpart.
101-11.501 Authority.
101-11.502 Definitions.
101-11.503 Agency program responsibilities.
101-11.504 NARS responsibilities.
101-11.505 Micrographic systems analysis.
101-11.506 Standards and guidelines for creation of microform records.
101-11.506-1 Authorization.
101-11.506-2 Preparation.
101-11.506-3 Microfilming.
101-11.507 Standards and guidelines for the maintenance of microform records.
101-11.507-1 Storage.
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101-11.508 Standards and guidelines for the use of microform records.
101-11.509 Disposition of microform records.
101-11.510 Centralized micrographic services.
101-11.510-1 Services available.
101-11.510-2 Requesting services.
101-11.510-3 Fees for services.

Subpart 101-11.5 is revised to read as follows:

Subpart 101-11.5—Micrographics

§ 101-11.500 Scope of subpart.

This subpart provides (a) standards and regulations for using micrographics technology in the creation, use, storage, retrieval, preservation, and disposition of Federal Government records and (b) information concerning micrographics services available from the National Archives and Records Service (NARS). Additional guidance on the use of micrographics is available in NARS records management handbooks.

§ 101-11.501 Authority.

As provided in 44 U.S.C. chapters 29 and 33, the Administrator of General Services is authorized to (a) establish standards for the photographic and micrographic production and reproduction of records by Federal agencies with a view to disposal of the original records; (b) establish uniform standards within the Government for the storage, use, and disposition of processed microfilm records; (c) develop and promote standards to improve the management of records; and (d) establish, maintain, and operate centralized microfilming services for Federal agencies.

§ 101-11.502 Definitions.

For the purpose of this Subpart 101-11.5, the following definitions shall apply:

(a) *Archival microfilm.* Silver halide microfilm meeting the requirement of Federal Standard No. 125D, Film Photographic and Film, Photographic, Processed (for permanent records use); American National Standards Institute (ANSI) Standard PH4.8-1971, Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers; and ANSI Standard PH1.43-1976, Storage of Processed Safety Photographic Films, Practices for.

(b) *Computer Output Microfilm (COM).* Microfilm containing data produced by a recorder from computer-generated signals.

(c) *Microfilm.* (1) Raw (unexposed and unprocessed) film with characteristics that make it suitable for use in micrographics.

(2) The process of recording micro images on film; and

(3) A fine-grain, high-resolution photographic film containing an image greatly reduced in size from the original.

(d) *Microform.* A term used for any form containing microimages.

(e) *Micrographics.* The science and technology of document and information microfilming and associated microform systems.

(f) *Microimage.* A unit of information, such as a page of text or a drawing, that has been made too small to be read without magnification.

§ 101-11.503 Agency program responsibilities.

Each agency shall:

(a) Issue internal regulations and procedures for the submission, review, and approval or disapproval of proposed micrographic systems and applications;

(b) Issue procedures for evaluating the continued efficiency and effectiveness of micrographic systems and applications;

(c) Review ongoing micrographic systems periodically for conformance to established policies, procedures, and standards;

(d) Develop and maintain a complete and accurate inventory of micrographic production and reproduction equipment within the agency; e.g., cameras, processors, duplicators, COM recorders. The inventory shall, as a minimum, include: Type of equipment, name of manufacturer, model number, date of acquisition, location, and purchase or rental status;

(e) Disseminate all NARS publications containing micrographics standards and guidelines and other current information concerning the advantages and limitations of micrographic systems to managers and operating officials involved in the development or operation of micrographic systems; and

(f) Assign responsibility for the review and approval of all micrographic systems to a specific office or official. The responsible office or official shall review ongoing and proposed system and application requests to ensure that they are complete and contain the information shown in § 101-11.505.

(g) Submit to the Office of Records Management, Program Operations Division, General Services Administration (NRO), Washington, DC 20408, one copy of agency directives issued in accordance with paragraphs 101-11.503(a), (b) and (f). Include such material issued by the first subordinate organizational level below agency headquarters.

§ 101-11.504 NARS responsibilities.

NARS shall:

(a) Disseminate to agencies the standards and criteria necessary for developing, evaluating, and operating micrographic systems. This includes:

(1) Information to acquaint potential users with micrographics technology and its various applications;

(2) Methods and procedures for conducting feasibility studies;

(3) Criteria for estimating cost and guidelines for comparing existing and proposed systems with alternative approaches;

(4) Standards for microforms and formats, and guidelines for selecting appropriate micrographic systems for specific types of applications; and

(5) Standards and guidelines for evaluating the continuing efficiency and effectiveness of micrographic systems.

(b) Analyze Government-wide practices to determine areas in which the application of micrographics will improve efficiency and effectiveness in the creation and use of documents and information;

(c) Conduct periodic inspections of agencies' micrographics programs as part of the NARS records management program evaluation prescribed in § 101-11.103, Agency program evaluation;

(d) Coordinate with the Government Printing Office (GPO) on matters in-

volving micropublishing, with the National Bureau of Standards (NBS) on Government micrographic standards, and with the Automated Data and Telecommunications Service (ADTS) GSA, on procurement and use of COM equipment;

(e) Approve or disapprove agency requests to dispose of original records after microfilming as prescribed in § 101-11.506-1; and

(f) Provide centralized micrographic services described in § 101-11.510.

§ 101-11.505 Micrographic systems analysis.

(a) A system analysis including a cost/benefit analysis shall be conducted prior to the decision to establish a micrographic facility. The cost/benefit analysis shall include a comparative cost analysis in accordance with Office of Management and Budget (OMB) Circular A-76, if it meets the guidelines described therein.

(b) The system analysis shall contain the following items:

(1) An examination of the current operating system to evaluate the need for the documents or information and the use to which they are put,

(2) A consideration of the alternatives to micrographics including such measures as:

(i) Revising records control schedules to provide for the disposition of paper records by disposal, by transfer of inactive paper records to the Federal records centers, or by offer of permanently valuable paper records to the National Archives and Records Service; and

(ii) Improving current retrieval and distribution procedures using paper records.

(3) A consideration of all feasible alternative methods of creating the microform records, such as:

(i) Purchase, lease, or lease-purchase of equipment.

(ii) Sharing micrographic production equipment already in the agency.

(iii) Using the micrographic facility of another agency.

(iv) Contracting for NARS reimbursable micrographic services.

(v) Contracting with a non-Government commercial services firm.

(4) An analysis of the workload and staffing requirements to ensure sufficient trained personnel to operate and maintain the micrographic system.

(5) An examination of the information needs of the user when determining reduction ratio, format, quality control procedures, viewing equipment, and user training.

(6) A review to ensure compatibility of microforms used within the agency and those used to transmit information to other agencies and the public.

(c) The chosen alternative shall be the most cost effective and efficient system unless overriding intangible benefits necessitate an alternate decision.

(d) Procurement of COM equipment is subject to the provisions of 41 CFR Part 101-32 covering utilization and procurement of automatic data processing equipment.

§ 101-11.506 Standards and guidelines for creation of microform records.

§ 101-11.506-1 Authorization.

(a) Agencies proposing to microfilm records to dispose of the original records shall request authority on Standard Form (SF) 115, Request for Records Disposition Authority, in accordance with § 101-11.406-2. The SF 115 shall provide for the disposition of original records and microforms.

(1) Agencies proposing microfilming methods and procedures meeting the standards in § 101-11.506-3 shall include on the SF 115 the following certification: "This certifies that the records described on this form will be microfilmed in accordance with the standards set forth in 41 CFR 101-11.506."

(2) Agencies whose proposed microfilming methods and procedures do not meet the standards in § 101-11.506-3 shall include on the SF 115 a description of the system and standards proposed for use.

(b) Agencies proposing to retain and store the silver original microforms of permanent records after disposal of the original paper records shall include on the SF 115 a statement that storage facilities shall adhere to the standards of §§ 101-11.507 and 101-11.508. Such agencies shall also indicate when the first inspection of microfilm required by § 101-11.507-2 will be conducted.

(c) Agencies proposing to retain the original paper records in accordance with the approved records disposition schedule should not submit an SF 115. These agencies may apply agency standards and requirements for creation of microforms of the records. The agency shall, however, ensure that the requirements of § 101-11.503 are satisfied.

§ 101-11.506-2 Preparation.

(a) The integrity of the original records authorized for disposal shall be maintained by ensuring that the original microforms are adequate substitutes for the original records and serve the purpose for which such records were created or maintained. Copies shall be complete and contain all record information shown on the originals.

(b) The records shall be arranged, identified, and indexed so that any individual document or component of the records can be located. As a minimum, the records shall include information identifying the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; and the inclusive dates, names, or other data identifying the first and last records to be included on a unit of film.

(c) All indexes, registers, or other finding aids shall be located in front of the collection of records to be microfilmed.

§ 101-11.506-3 Microfilming.

(a) The film stock used to make archival microforms of permanent records authorized for disposal shall conform to Federal Standard No. 125D and be on safety-base permanent record film as specified in ANSE PH1.25-1976, Safety Photographic Film, Specifications for; PH1.28-1976, Photographic Film for Archival Records, Silver Gelatin Type on Cellulose Ester Base, Specifications for; PH1.41-1976, Photographic Film for Archival Records, Silver Gelatin Type on Polyrester Base, Specifications for; PH1.29-1971, Curl of Photographic Film, Methods for Determining the; and PH1.31-1973, Brittleness of Photographic Film, Method of Determining the. Procedures for testing are covered in Federal Standard No. 170B, Film, Photographic, Black and White, Classification and Testing Methods, which cites ANSI standards. To ensure protection for permanent records, agencies using microfilm systems which do not produce silver halide original microfilm meeting these standards shall immediately produce a silver duplicate meeting the standards.

(b) All indexes, registers, or other finding aids, if microfilmed, shall be placed in the first frames as the beginning of a roll of film or in the last frames of a microfiche or microfilm jacket. Computer-generated microforms shall have the indexes following the data on a roll of film or in the last frames of a microfiche or microfilm jacket.

(c) Systems that produce original permanent records on microfilm with no paper original; e.g., COM, shall be designed so that they produce microfilm which meets the standards of this § 101-11.506-3.

(d) Microfilm processing.

(1) The archival microforms of permanent records authorized for disposal shall be processed so that the residual thiosulfate concentration will not exceed 0.7 microgram per square centimeter in a clear area. Agencies that conduct tests shall meet this requirement by performing the methylene blue test specified in ANSI PH4.8-1971. Agencies that do not have testing facilities shall submit a sample for testing from a clear area of the film measuring at least 6 square inches, to the Office of the Executive Director, Preservation Services Division, Gener-

al Services Administration (NAP), Washington, D.C. 20408. A charge will be made for each sample tested.

(2) If the processing is to be of the reversal type, it shall be full photographic reversal; i.e., develop, bleach, expose, develop, fix, and wash.

(e) Quality standards.

(1) The minimum resolution on microforms of source documents shall conform to the Quality Index Method of determining resolution as described in the appendix to the National Micrographics Association (NMA) Standard MS104-1972.

(i) For permanent records, a Quality Index of five is required at the level of the specific number of generations used in the system.

(ii) For nonpermanent records, a Quality Index of five at the third-generation level is required.

(iii) Resolution tests shall be performed using the NBS 1010A Microcopy Resolution Test Chart and following the instruction provided with the chart.

(2) The background photographic densities on microforms shall be as follows:

Classification	Description of documents	Background density
Group 1	High-quality printed books, periodicals, and dense typing	1.30-1.50
Group 2	Fine-line originals, letters typed with a worn ribbon, pencil writing with a soft lead, and documents with small printing.	1.15-1.40
Group 3	Pencil drawings, faded printing, graph paper with pale, fine, colored lines, and very small printing such as footnotes.	1.00-1.20
Group 4	Very weak pencil manuscripts and drawings, and poorly printed, faint docoments.	0.90-1.10
Group 5	COM.	

(3) Computer Output Microforms shall meet the National Micrographics Association (NMA) Standard MS1-1971, Quality Standards for Computer Output Microfilm.

(f) Microforms and formats.

(1) MIL-STD-399, Military Standard Microform Formats, and the standards and specifications referenced therein shall be a mandatory standard for microforms produced by or for Federal agencies.

(2) The outside dimensions for microfilm jackets shall be 148.00±0.00mm×105.00±0.40mm.

(3) Mandatory Federal COM format standards are contained in Federal Information Processing Standards (FIPS) Publication Number 54 which is hereby incorporated by reference.

(g) Microform duplicating. The production of more than 250 duplicates from an original microform; i.e., one roll of microfilm 100 feet in length or one microfiche, requires the approval of the Joint Committee on Printing, Congress of the United States, as set forth in the Government Printing and Binding Regulations.

§ 101-11.507 Standards and guidelines for the maintenance of microform records.

§ 101-11.507-1 Storage.

Nonpermanent microform records can be safely maintained under the same conditions as most paper records. The following standards are required for storing archival microforms:

(a) Microforms stored in roll form shall be wound on cores or reels made of noncorroding materials such as nonferrous metals or inert plastics. Other metals may be used provided that they are coated with a corrosion-resistant finish. Plastics and coated metals that may exude fumes during storage shall not be used. Foreign materials, such as rubber bands, paper strips, or string, unless acidfree, shall not be used for confining film on reels or cores.

(b) Storage containers for microforms shall be made of inert materials such as metal or plastic. Containers made of paper products are prohibited, unless acidfree. The containers shall be sealed to protect the microforms from enviornmental impurities and improper humidities.

(c) Storage rooms or vaults for archival microforms shall be fire-resistant and must not be used for other purposes such as storage of other materials, office space, or working areas. The National Fire Protection Association publication NFPA 232, Protection of Records, 1970, provides further guidance. Protection from damage by water shall be accomplished by storing archival microfroms above reasonably anticipated flood stages.

(d) Environmental conditions required.

(1) The relative humidity of the storage room or vault shall range from 20 to 40 percent with an optimum of 30 percent. Rapid and wide-range humidity changes will be avoided and shall not exceed a 5 percent change in a 24-hour period. Dehumidifiers using desiccants shall not be used.

(2) Temperature shall not exceed 70° F. Rapid and wide-range temperature changes will be avoided and shall not exceed a 5 percent change in a 24-hour period.

(3) Particles which will abrade film or react on the image shall be cleaned from storage room air by the use of dry-media mechanical filters or electrostatic precipitators which have a cleaning efficiency of at least 80 percent when tested by the National Bureau of Standards Discoloration Test using atmospheric dust. Filtering media, casings, and coatings, if used, shall be noncombustive.

(4) Gaseous impurities such a peroxides, oxidizing agents, sulphur dioxide, hydrogen sulfide, and others which cause deterioration of microforms shall be removed from the air by suitable washers or absorbers. Archival microforms shall not be stored in the same room with films on a nitrate base or with nonsilver emulsions. They also shall not be stored in another room using the same ventilation system because gases given off by the other films will damage or destroy the images on the silver archival films.

§ 101-11.507-2 Inspection.

(a) A 1 percent sample of randomly selected original microforms of records authorized for disposal shall be inspected every 2 years. The sample shall be as follows: 70 percent—microforms not previously tested, 20 percent—microforms testes in the last inspection, and 10 percent—control group. The control group shall represent samples of microforms from the oldest microforms filmed through the most current. The results of the inspections shall be reported to the Office of the National Archives, General Services Administration (NN), Washington, D.C. 20408, 30 days after the inspection is completed. Reports shall include (1) the quantity of microform records on hand; e.g., number of rolls and number of microfiche; (2) the quantity of microforms inspected; (3) the condition of the microforms; (4) any defects discovered; and (5) corrective action taken.

(b) The elements of the inspection shall consist of (1) an inspection for aging blemishes following the guidelines in the National Bureau of Standards Handbook 96, Inspection of Processed Photographic Records Films for Aging Blemishes; (2) a rereading of resolution test targets; (3) a remeasurement of density; and (4) a certification of the environmental conditions under which the microforms are stored, as shown in § 101-11.506.1.

(c) An inspection log shall be maintained. Information to be contained in the log shall include (1) a complete description of all records tested (title; number or identifier for each unit of film; and inclusive dates, names, or other data identifying the first and last records on the unit of film); (2) the record group; i.e., newly tested, previously tested, or control group; (3) the date of inspection; (4) the elements of inspection; (5) the defects uncovered; and (6) the corrective action taken. In addition, the log shall contain the results of all archival film tests required by § 101-11.506-3.

(d) An agency having in its custody a master microform that is deteriorating, as shown by the inspection, shall prepare a silver duplicate to replace the deteriorating master.

§ 101-11.508 Standards and guidelines for the use of microform records.

(a) The master microform shall not be used for reference purposes. Duplicates shall be used for reference and for further duplication on a recurring basis or for large-scale duplication, as for distribution of records on microform. Agency procedures shall ensure that master microforms remain clean and undamaged during the duplication process.

(b) Microforms containing classified information shall be treated as to marking, handling, and regrading, in accordance with DOD Regulation 5200.1-R and regulations derived therefrom.

§ 101-11.509 Disposition of microform records.

The disposition of microform records shall be carried out in the same manner prescribed for other types of records in Subpart 101-11.4, with the following additional requirements.

(a) The silver halide original (or a silver halide duplicate microform record created in accordance with § 101-11.506.3), plus one copy (silver, diazo, or vesicular), for permanent records, of each record microfilmed by an agency shall be verified for completeness and accuracy. The microforms shall be transferred to an approved agency records center, the National Archives and Records Service, or to a Federal records center, at the time that the records are to be retired in accordance with the approved records control schedule.

(b) The microforms shall be accompanied by information identifying the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; the inclusive dates, names, or other data identifying the first and last records to be included on a unit of film; and a certification by an agency official that the microforms were produced in the normal course of agency operations and that care has been taken to ensure that the microforms are a complete and accurate copy of the original records.

§ 101-11.510 Centralized micrographic services.

§ 101-11.510-1 Services available.

The following micrographic services of the National Archives and Records Service are available to Federal agencies:

(a) Technical advice and assistance in designing and implementing agency projects and programs to preserve records, reduce volume, provide security copies, make duplicate copies, or improve information retrieval systems;

(b) Information on current uses of micrographics, new micrographic techniques, and developments in the field; and

(c) Reimbursable microfilming services for Federal agencies (including the preparation, indexing, and filming of records), inspection of film, and labeling of film containers.

§ 101-11.510-2 Requesting services.

(a) Agencies desiring technical assistance from NARS should communicate with the Office of Records Management, General Services Administration (NR), Washington, D.C. 20408, or the appropriate regional National Archives and Records Service.

(b) Agencies desiring microfilming services should contact the Office of Federal Records Centers, General Services Administration (NC), Washington, D.C. 20408, or the nearest regional Office of the National Archives and Records Service or any of the Federal Archives and Records Centers.

§ 101-11.510-3 Fees for services.

The fees for microfilming services will be announced in GSA bulletins. For microfilming services not listed, contact the office shown in § 101-11.510-2(bb).

Dated: March 15, 1978.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc. 78-7953 Filed 3-24-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

SEA TURTLES

Proposed "Threatened" Status; Reopening of Comment Period

CROSS REFERENCE: For a document pertaining to the above matter, issued jointly by the Department of Commerce and the Department of the Interior, see FR Doc. 78-8157 appearing in the Proposed Rules section of this issue. Refer to the table of contents under "Fish and Wildlife Service" for the page number.

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 227]

SEA TURTLES

Proposed Threatened Status; Reopening of Comment Period

AGENCY: National Marine Fisheries Service.

ACTION: Proposed rule.

SUMMARY: The comment period on the proposed regulations to list the green, loggerhead, and Pacific ridley sea turtles as threatened and to prescribe certain protective provisions is reopened for 21 days. The comment period is reopened in response to a request by the Environmental Defense Fund and will allow the submission of new information.

DATES: Comments will be received on or before April 17, 1978.

ADDRESSES: Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Richard B. Roe, Acting Chief, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC 20235, telephone: 202-634-7287.

SUPPLEMENTARY INFORMATION: On May 20, 1975 (40 FR 21982), regulations which proposed listing the green (*Chelonia mydas*), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles as threatened species and prescribed certain protective provisions were published jointly by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, and the Department of the Interior, U.S. Fish and Wildlife Service, pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)).

A request to reopen the public comment period was submitted by the Environmental Defense Fund (EDF). The request argued that additional comment time is necessary to allow the submission of newly acquired evidence and related data, including affidavits from recognized scientific experts on sea turtles. The EDF asserted that since the comment period on the proposed regulations has been closed since April 5, 1976, the consideration of their newly acquired information was necessary to assure compliance with the statutory standard of listing species based on the best available scientific and commercial data.

Both the National Oceanic and Atmospheric Adminstration and the U.S. Fish and Wildlife Service have decided that the comment period will be reopened for 21 days. The comment period is hereby reopened to April 17, 1978.

Written information and data should be submitted to the above address. Final regulations will be promulgated as soon as possible after the comment period. Information received will be available for public inspection during normal business hours at the National Marine Fisheries Service, Office of the Chief, Marine Mammal and Endangered Species Division, Room 410-C, 3300 Whitehaven Street NW., Washington, D.C.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

MARCH 23, 1978.

[FR Doc. 78-8157 Filed 3-24-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 29323]

INTERNATIONAL AIR SERVICE CO., ACQUISITION OF CONTROL OF ALOHA AIRLINES, INC.

Postponement of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the oral argument in this proceeding, assigned to be held before the Board on March 29, 1978, is postponed to April 11, 1978, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., March 20, 1978.

PHYLLIS T. TAYLOR,
Secretary.

[FR Doc. 78-7995 Filed 3-24-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending February 17, 1978

Total bituminous coal exports for this week were 139,143 short tons compared with 72,569 short tons exported the preceding week and average weekly exports of 195,000 short tons for the preceding six weeks. All bituminous coal exports for the week were of metallurgical grades. The weighted average price of this coal was $56.35 per short ton. With the low level of export activity, only a small number of firms reported coal shipments during the week. A breakdown of these exports by volatility and area of destination is, therefore, withheld from this report to prevent disclosure of information deemed to be confidential pursuant to Section 7(c) of the Export Administration Act of 1969, as amended. For the same reason, only the weighted average price of total metallurgical and total bituminous coal exports is shown in the accompanying tables.

Exports of coke manufactured from coal for this week were 43,315 short tons compared with 75,173 short tons exported the preceding week and a weekly average of 25,000 short tons for the preceding six weeks. The low and average coke price data were again depressed by low value breeze coke exports. No apparent price change is indicated since the high price of $142.79 per short ton reported for this week is the same as that reported for the past five weeks.

Domestic coal production for the week was 6,570,000 short tons, an increase from the 6,110,000 short tons produced the preceding week. This week's production is at the highest level since the start of the strike. Coal production has been increasing steadily since the week ending January 28 when the lowest weekly production for this strike period was reported at 4,970,000 short tons.

Total coal consumption for the week was estimated to be 11,146,000 short tons compared with 11,737,000 short tons consumed the preceding week. Weekly coal consumption is a relatively stable figure that, until this week, has only varied between 11,398,000 short tons and 12,183,000 short tons since the start of the strike. Total end-of-week coal inventories were estimated to be 99,598,000 short tons, a decrease of 6,348,000 short tons from the preceding week.

Available data indicated no domestic price movement during the week.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

TABLE 1.—*U.S. Exports of Bituminous coal and coke of coal, in short tons*

[For week ending Feb. 17, 1978]

Commodity	Exports						
	Weekly average		Week ending				
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile [1] metallurgical coal	NA	NA	***133,877	199,136	96,895	(*)	(*)
Medium volatile [2] metallurgical coal	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile [3] metallurgical coal	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal	NA	NA	889,125	*550,459	**436,605	521,109	128,822
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	.....
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

Commodity	Average		Week ending			
	January 1976	January 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile [1] metallurgical coal	NA	NA	(*)	(*)	(*)	(*)
Medium volatile [2] metallurgical coal	NA	NA	(*)	(*)	(*)	(*)
High volatile [3] metallurgical coal	NA	NA	(*)	(*)	(*)	(*)
Total metallurgical coal	NA	NA	174,709	311,331	97,800	262,585
Other bituminous coal	NA	NA	.....	.....	.....	.....
Total bituminous coal	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514	4,466	5,062	29,143	30,634

Commodity	Weekly average		Week ending		
	February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Low volatile [1] metallurgical coal	NA	NA	(*)	(*)	(*)
Medium volatile [2] metallurgical coal	NA	NA	(*)	(*)	(*)
High volatile [3] metallurgical coal	NA	NA	(*)	(*)	(*)
Total metallurgical coal	NA	NA	251,327	72,569	139,143
Other bituminous coal	NA	NA	.....	.....	.....
Total bituminous coal	736,138	769,840	251,327	72,569	139,143
Coke of coal	22,185	12,805	3,998	75,173	43,315

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
*Includes 20,848 short tons of metallurgical grade coal not identified as to volatility.
**Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
***Partial, in content tons.
NA—not available.

Sources: Office of Expert Administration, and Bureau of the Census.

TABLE 2.—*Contracts for export of lbituminous coal and coke of coal, in short tons*

For week ending Feb. 17, 1978]

Commodity	Contracts							
	Week ending							
	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Next 6 weeks	Total for 12 weeks
Low volatile [1] metallurgical coal	140,137	79,977	80,587	84,216	147,216	84,216	991,208	1,607,557
Medium volatile [2] metallurgical coal	324,153	167,150	139,650	151,150	226,450	211,450	331,090	3,591,093
High volatile [3] metallurgical coal	101,222	40,974	48,510	36,710	36,710	36,710	269,053	569,889
Total metallurgical coal	565,512	288,101	268,747	272,076	450,376	332,376	3,591,351	5,768,539
Other bituminous coal	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]
Coke of lcoal	16,895	58,500	2,850	14,900	36,370	56,254	86,924	272,693

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 3—*U.S. exports by commodity and area of destination, in short tons*

[For week ending Feb. 17, 1978]

Commodity and area of destination	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile [1] metallurgical coal:							
Asia			7,458	111,525	24,808	[4]	[4]
Europe			43,463	40,893	69,440	[4]	[4]
Western Hemisphere			82,956	46,718	2,674	[4]	[4]
Total	NA	NA	**133,877	199,136	96,895	[4]	[4]
Medium volatile [2] metallurgical coal:							
Asia				102,906	93,291	[4]	[4]
Europe				173,711	15,958	[4]	[4]
Western Hemisphere				6,803	9,383	[4]	[4]
Total	NA	NA	NA	283,420	118,632	[4]	[4]
High volatile [3] metallurgical coal:							
Asia				11,331		[4]	[4]
Europe					76,532	[4]	[4]
Western Hemisphere				35,724	100,295	[4]	[4]
Total	NA	NA	NA	47,055	176,827	[4]	[4]
Total metallurgical coal:							
Asia			377,151	225,762	118,099	134,389	[4]
Europe			269,606	214,604	161,930	206,831	[4]
Western Hemisphere			224,411	*110,093	*112,325	136,928	[4]
Total	NA	NA	***889,125	*550,459	*436,605	521,109	128,822

	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Low volatile [1] metallurgical coal:							
Asia	[4]	[4]	[4]	[4]	[4]	[4]	[4]
Europe	[4]	[4]	[4]	[4]	[4]	[4]	[4]
Western Hemisphere	[4]	[4]	[4]	[4]	[4]	[4]	[4]
Total	[4]	[4]	[4]	[4]	[4]	[4]	[4]

TABLE 3—Continued

Commodity and area of destination	Exports						
	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Medium volatile [2] metallurgical coal:							
Asia	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Europe	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total	(4)	(4)	(4)	(4)	(4)	(4)	(4)
High volatile [3] metallurgical coal:							
Asia	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Europe	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total metallurgical coal							
Asia	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Europe	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total	174,709	311,331	97,800	262,585	251,327	72,567	139,143

	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	
Total bituminous coal	1,023,827	1,044,261	1,047,451	679,883	788,274	580,509	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Other bituminous coal							
Total bituminous coal	174,709	311,331	97,800	262,585	251,327	72,569	139,142
Coke of coal	4,466	5,062	29,143	30,634	3,998	75,173	43,315

[1] 22 pct. or less volatile matter. [2] 31 pct. or less and more than 22 pct. volatile matter. [3] More than 31 pct. volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
*Includes 44,251 short tons of metallurgical grade coal not identified by volatility. **Partial, in content tons.
***Includes 17,957 short tons of metallurgical grade coal to destinations not listed above.
NA—Not available.
Sources: Office of Export Administration and Bureau of the Census.

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*

[For week ending Feb. 17, 1978]

Commodity and area of destination	Contracts							
	Week ending							
	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Next 6 weeks	Total for 12 weeks
Total metallurgical: [1]								
Asia	230,060	112,019	126,055	80,755	208,055	185,055	1,566,618	2,509,617
Europe	250,496	146,226	113,226	157,226	208,226	113,226	1,311,303	2,299,929
Western Hemisphere	84,956	29,856	30,466	34,095	34,095	34,095	424,970	672,533
Total	565,512	288,101	268,747	272,076	450,376	332,376	*3,591,361	*5,768,539
Other bituminous	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total bituminous coal	(2)							
Coke of coal	16,985	58,500	2,850	14,900	36,370	56,254	86,924	272,693

[1] Volatility data by destination have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[2] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[3] Data withheld to avoid disclosure of data withheld above. See footnote 2.
*Includes 286,460 tons to destinations not listed above.
Sources: Office of Export Administration and Bureau of the Census.

TABLE 5.—*Export prices of bituminous coal and coke of coal, in dollars per short ton*

[Week ending Feb. 17, 1978]

Commodity	Average					
	January 1976	January 1977	November 1977	Weighted average	High	Low
Low volatile metallurgical coal [1]	NA	NA	NA	(4)	(4)	(4)
Medium volatile metallurgical coal [2]	NA	NA	NA	(4)	(4)	(4)
High volatile metallurgical coal [3]	NA	NA	NA	(4)	(4)	(4)
Total metallurgical coal	NA	NA	53.84	56.35	(4)	(4)
Other bituminous coal	NA	NA	35.01			
Total bituminous coal	49.35	49.70	50.99	56.35	(4)	(4)
Coke of coal	50.06	62.35	79.70	57.88	142.79	50.00

[1] 22 percent or less volatile matter.
[2] 31 percent or less and more than 22 percent volatile matter.
[3] More than 31 percent volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*

[For week ending Feb. 17, 1978]

	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Imports:							
Bituuminous coal [1]	20,097	21,452	31,158	NA	NA	NA	NA
Coke of coal	20,774	28,903	41,267	NA	NA	NA	NA
Exports:							
Bituminous coal [1]	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Average		Week ending			
	January 1976	January 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Imports:						
Bituminous coal [1]	16,346	27,198	NA	NA	NA	NA
Coke of coal	3,483	5,987	NA	NA	NA	NA
Exports:						
Bituminous coal	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514	4,466	5,062	29,143	30,634

	Weekly average		Week ending		
	February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Imports:					
Bituminous coal [1]	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA
Exports:					
Bituminous coal [1]	736,138	769,840	251,327	72,569	139,143
Coke of coal	22,185	12,805	3,998	75,173	43,315

[1] Includes both metallurgical grade and steam coal.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 7.—*Bituminous coal and coke of coal* production, consumption, and stocks, in thousands of short tons*

[For week ending Feb. 18, 1978]

	Weekly average			Week ending				
	December 1975	December 1976	November 1977	Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977	January 1976 weekly average
Total bituminous coal production**	12,019	12,593	14,798	9,100	5,080	[5]5,515	5,700	11,627
Consumption: metallurgical***	1,519	1,568	NA	1,290	1,368	1,364	1,324	1,505
Other bituminous:								
Electric utility	8,414	9,387	NA	9,228	9,550	9,398	8,928	9,009
General Industry	1,358	1,421	NA	1,330	1,252	1,163	1,146	1,211
Total other	9,772	10,808	NA	10,558	10,802	10,561	10,074	10,220
Total bituminous	11,291	12,376	NA	11,848	12,170	11,925	11,398	11,725

TABLE 7.—Continued

	Weekly average			Week ending				
	December 1975	December 1976	November 1977	Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977	January 1976 weekly average
Bituminous coal stocks (end of specified periods): metallurgical***	8,671	9,804	NA	r15,084	14,776	13,982	13,088	8,115
Other bituminous:								
Electric utility	109,707	117,468	NA	r146,171	141,691	136,993	131,308	104,456
General industry	8,504	6,900	NA	9,495	9,248	8,896	8,425	6,425
Total other	118,211	124,368	NA	155,666	150,939	145,889	139,713	110,881
Total bituminous	126,882	134,172	NA	170,750	165,715	159,871	152,801	118,996

	January 1977 weekly average	Week ending						
		Jan. 7, 1978	Jan. 14, 1978	Jan. 21, 1978	Jan. 28, 1978	Feb. 4, 1978	Feb. 11, 1978	Feb. 18, 1978
Total bituminous coal production**	9,520	5,755	r5,260	r5,045	r4,970	5,440	r6,110	6,570
Consumption: metallurgical***	1,428	1,291	1,192	1,221	1,161	1,129	1,069	1,035
Other bituminous:								
Electric utility	9,730	9,359	9,652	9,763	9,765	9,386	9,479	8,923
General industry	1,442	1,220	1,298	1,199	1,152	1,185	1,189	1,188
Total other	11,172	10,579	10,950	10,962	10,917	10,571	10,668	10,111
Total bituminous	12,600	11,870	12,142	12,183	12,078	11,700	11,737	11,146
Bituminous coal stocks (end of specified periods): metallurgical***	8,107	11,992	10,900	9,771	8,821	r7,772	6,888	6,024
Other bituminous:								
Electric utility	103,883	126,268	119,399	112,535	105,945	r99,244	92,937	87,692
General industry	5,960	8,046	7,579	7,246	6,811	6,484	6,121	5,882
Total other	109,843	134,314	126,978	119,781	112,756	r105,728	99,058	93,574
Total bituminous	117,950	146,306	137,878	129,552	121,577	r113,500	105,946	99,598

*Data on coke of coal production, consumption, and stocks are not available on a weekly basis.
**More detailed production data are not available.
***More detailed data in terms of volatile content are not available.
rRevised.

Data source: Department of Energy.

TABLE 8.—*Representative domestic bituminous coal and coke of coal prices, dollars per short tons f.o.b. mine or coke plant*

[For week ending Feb. 18, 1978]

		Metallurgical coal			Other	Coke	
		Low volume	Medium volume	High volume	Bituminous	Furnace	Foundry
December 1975	Spot		(46.38)	29.28	17.37	NA	110/117
	Contract	NA	NA	NA	NA	NA	NA
December 1976	Spot	33/50	28/33	27/33	16.12	85/97	121/125
	Contract	45.75/49.50	40/46.50	34/40	17.37	NA	NA
November 1977	Spot	42/51	31/37	29/36	18.75	85/90	129/132.50
	Contract	43/50	40/43	31/38	18.81	NA	NA
Week ending Dec. 10, 1977	Spot	44/51	31/37	29/36	18.87	85/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Dec. 17, 1977	Spot	44/51	31/37	29/36	18.87	85/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Dec. 24, 1977	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Dec. 30, 1977	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 7, 1978	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 14, 1978	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 21, 1978	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 28, 1978	Spot	44/51	31/37	29/36	20.31	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Feb. 4, 1978	Spot	44/51	31/37	29/36	20.31	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA

TABLE 8.—Continued

		Metallurgical coal			Other	Coke	
		Low volume	Medium volume	High volume	Bituminous	Furnace	Foundry
Week ending Feb. 11, 1978	Spot	44/51	31/37	29/36	20.56	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Feb. 18, 1978	Spot	44/51	31/37	29/36	20.56	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA

NA: Not available.

Source: McGraw-Hill's "Coal Week." Prices shown for the years 1975 and 1976 represent single quotes selected at random, as does the price shown for November 1977. Metallurgical coal source is Central Appalachia. Prices for "Other Bituminous Coal" are averaged from Northern Appalachian steam coal quotes.

[FR Doc. 78-7722 Filed 3-20-78; 2:24 pm]

[3510-25]

EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending February 24, 1978

Total bituminous coal exports for this week were 206,762 short tons compared with 139,143 short tons exported the preceding week and average weekly exports of 189,125 short tons for the past six weeks. All bituminous coal exports for the week were of metallurgical grades. The weighted average price of this coal was $49.90 per short ton with a high and low price for the week of $61.00 and $42.85 per short ton, respectively. Average weekly prices of bituminous coal since the start of the coal strike have varied within a range of $48.94 to $57.76 per short ton.

Exports of coke manufactured from coal for this week were 8,595 short tons compared with 43,315 short tons exported the preceding week and an average of 31,221 short tons per week for the preceding six weeks. As in several prior weeks, the low and average coke export prices presented in the accompanying tables were depressed by low value breeze coke exports. There has been no apparent change in export prices since the beginning of the strike. The high price of $142.79 per short ton reported for this week is the same as that reported for the past six weeks.

Domestic coal production for this week was 6,680,000 short tons compared with 6,570,000 short tons produced the preceding week. Coal production has shown a steady increase each week since January 28 when a strike period low of 4,970,000 short tons of coal were produced.

Total coal consumption for the week was 10,797,000 short tons compared with 11,146,000 short tons consumed the preceding week. Coal consumption this week was down in all reported categories. Total coal end-of-week inventories were estimated to be 94,543,000 short tons, a decrease of 5,055,000 short tons from the end of the preceding week.

A review of several data sources shows that domestic prices of metallurgical coal, coke, and steam coal sold under long-term contract are stable and essentially have not changed since the start of the strike. However, steam coal spot market prices have become volatile as pending consumer coal shortages have increased competition for limited existing supplies. As a result, domestic spot market steam coal prices have experiences increases within a range of $4 to $9 per short ton since the start of the strike.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

TABLE 1.—*U.S. exports of bituminous coal and coke of coal, in short tons*

[For week ending Feb. 24, 1978]

Commodity	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile metallurgical coal [1]	NA	NA	***133,877	199,136	96, 895	(*)	(*)
Medium volatile metallurgical coal [2]	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile metallurgical coal [3]	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal	NA	NA	889,125	*550,459	**436,605	521,109	128,822
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922
	Average			Week ending			
		January 1976	January 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile metallurgical coal [1]		NA	NA	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal [2]		NA	NA	(*)	(*)	(*)	(*)
High volatile metallurgical coal [3]		NA	NA	(*)	(*)	(*)	(*)
Total metallurgical coal		NA	NA	174,709	311,331	97,800	262,585
Other bitumuminous coal		NA	NA	0	0	0	0
Total bituminous coal		834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal		12,326	20,514	4,466	5,062	29,143	30,634

TABLE 1.—Continued

Commodity	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
	Weekly average			Week ending			
		February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Low volatile metallurgical coal [1]		NA	NA	(4)	(4)	(4)	(4)
Medium volatile metallurgical coal [2]		NA	NA	(4)	(4)	(4)	(4)
High volatile metallurgical coal [3]		NA	NA	(4)	(4)	(4)	(4)
Total metallurgical coal		NA	NA	251,327	72,569	139,143	206,762
Other bituminous coal		NA	NA	0	0	0	0
Total bituminous coal		736,138	769,840	251,327	72,569	139,143	206,762
Coke of coal		22,185	12,805	3,998	75,173	43,315	8,595

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been witheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
*Includes 20,648 short tons of metallurgical grade coal not identified as to volatility.
**Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
***Partial, in content tons.

NA: Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 2.—*Contracts for export of bituminous coal and coke of coal, in short tons*

[For week ending Feb. 24, 1978]

Commodity	Contracts							
	Week ending						Next 6 weeks	Total for 12 weeks
	Mar. 3, 1978	Mar. 10, 1078	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978		
Low volatile metallurgical coal [1]	125,577	80,587	84,216	84,216	124,216	84,216	991,208	1,574,236
Medium volatile metallurgical coal [2]	249,078	183,430	107,150	185,750	314,874	217,157	2,516,463	3,773,902
High volatile metallurgical coal [3]	70,474	48,810	31,510	36,710	36,710	36,710	273,061	533,985
Total metallurgical coal	445,129	312,827	222,876	306,676	475,800	338,083	3,780,732	5,882,123
Other bituminous coal	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Coke of coal	3,420	2,960	2,840	2,920	2,820	2,800	38,264	56,024

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 3.—*U.S. exprts by commodity and area of destination, in short tons*

[For week ending Feb. 24, 1978]

Commodity and area of destination	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile metallurgical coal: [1]							
Asia			7,458	111,525	24,808	(4)	(4)
Europe			43,463	40,893	69,440	(4)	(4)
Western Hemisphere			82,956	46,718	2,647	(4)	(4)
Total		NA	NA	**133,877	199,136	96,895	(4)	(4)

TABLE 3.–Continued

[For week ending Feb. 24, 1978]

Commodity and area of destination	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Medium volatile metallurgical coal:[2]							
Asia				102,906	93,291	(*)	(*)
Europe				173,711	15,958	(*)	(*)
Western Hemisphere				6,803	9,383	(*)	(*)
Total	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile metallurgical coal:[3]							
Asia				11,331	0	(*)	(*)
Europe				0	76,532	(*)	(*)
Western Hemisphere				35,724	100,295	(*)	(*)
Total	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal:							
Asia			377,151	225,762	118,099	134,389	(*)
Europe			269,606	214,604	161,930	206,831	(*)
Western Hemisphere			224,411	*110,093	*112,325	136,928	(*)
Total	NA	NA	***889,125	*550,459	*436,605	521,109	128,822

	Week ending							
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Low volatile metallurgical coal:[1]								
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal:[2]								
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
High volatile metallurgical coal:[3]								
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total metallurgical coal:								
Asia	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total	174,709	311,331	97,800	262,585	251,327	72,569	139,143	206,762

Commodity	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,509	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

TABLE 3.—Continued

[For week ending Feb. 24, 1978]

Commodity and area of destination	Exports							
	Weekly average				Week ending			
		December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
	Week ending							
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Other bituminous coal	0	0	0	0	0	0	0	0
Total bituminous coal	174,709	311,331	97,800	262,585	251,327	72,569	139,143	206,762
Coke of coal	4,468	5,062	29,143	30,634	3,998	75,173	43,315	8,595

[1] 22 pct. or less volatile matter.
[2] 31 pct. or less and more than 22 pct. volatile matter.
[3] More than 31 pct. volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended. NA: Not available.
*Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
**Partial, in content tons.
***Includes 17,957 short tons of metallurgical grade coal to destinations not listed above.

Source: Office of Export Administration and the Bureau of the Census.

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*

[For week ending Feb. 24, 1978]

Commodity and area of destination	Contracts							
	Week ending							
	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978	Next 6 weeks	Total for 12 weeks
Total metallurgical coal: [1]								
Asia	151,832	125,455	75,555	159,355	235,055	190,762	1,577,498	2,515,512
Europe	153,226	156,906	113,226	113,226	153,226	113,226	1,491,804	2,294,840
Western Hemisphere	140,071	30,466	34,095	34,095	87,519	34,095	424,970	785,311
Total	445,129	312,827	222,876	306,676	475,800	338,083	*3,780,732	*5,882,123
Other bituminous	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])
Total bituminous coal [3]								
Coke of coal	3,420	2,960	2,840	2,920	2,820	2,800	38,264	56,024

[1] Volatility data by destination have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[2] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[3] Data withheld to avoid disclosure of data withheld above. See footnote 2.
* Includes 236,460 tons to destinationa not listed above

Sources: Office of Export Administration and Bureau of the Census.

TABLE 5.—*Export prices of bituminous coal and coke of coal, in dollars per short ton*

[Week ending Feb. 24, 1978]

Commodity	Average					
	January 1976	January 1977	November 1977	Weighted	High	Low
Low volatile metallurgical coal [1]	NA	NA	NA	([4])	([4])	([4])
Medium volatile metallurgical coal [2]	NA	NA	NA	([4])	([4])	([4])
High volatile metallurgical coal [3]	NA	NA		([4])	([4])	([4])
Total metallurgical coal	NA	NA	53.84	49.90	61.00	42.85

TABLE 5.—Continued *Export prices of bituminous coal and coke of coal, in dollars per short ton*

[Week ending Feb. 24, 1978]

Commodity	Average					
	January 1976	January 1977	November 1977	Weighted	High	Low
Other bituminous coal	NA	NA	35.01	0	0	0
Total bituminous coal	49.35	49.70	50.99	49.90	61.00	42.85
Coke of coal	50.06	62.35	79.70	92.16	142.79	42.81

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

NA: Not available.

TABLE 6.— *U.S. trade in bituminous coal and coke of coal, in short tons*

[For week ending Feb. 24, 1978]

	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Imports:							
Bituminous coal [1]	20,097	21,452	31,158	NA	NA	NA	NA
Coke of coal	20,774	28,903	41,267	NA	NA	NA	NA
Exports:							
Bituminous coal [1]	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Average		Week ending			
	January 1976	January 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Imports:						
Bituminous coal [1]	16,346	27,198	NA	NA	NA	NA
Coke of coal	3,483	5,987	NA	NA	NA	NA
Exports:						
Bituminous coal	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514	4,466	5,062	29,143	30,634

	Weekly average		Week ending			
	February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Imports:						
Bituminous coal [1]	NA	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA	NA
Exports:						
Bituminous coal [1]	736,138	769,840	251,327	72,569	139,143	206,762
Coke of coal	22,185	12,805	3,998	75,173	43,315	8,595

[1] Includes both metallurgical grade and steam coal.

NA: Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 7.—*Bituminous coal and coke of coal* production, consumption, and stocks, in thousand short tons*

[For week ending Feb. 25, 1978]

	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Total bituminous coal production**	12,019	12,593	14,798	9,100	5,080	r5,515	5,700
Consumption:							
Metallurgical***	1,519	1,568	NA	1,290	1,368	1,364	1,324
Other bituminous:							
Electric utility	8,414	9,387	NA	9,228	9,550	9,398	8,928
Generaindustry	1,358	1,421	NA	1,330	1,252	1,163	1,146
Total other	9,772	10,808	NA	10,558	10,802	10,561	10,074
Total bituminous	11,291	12,376	NA	11,848	12,170	11,925	11,398
Bitmunious coal stocks (end of specified periods):							
Metallurgical***	8,671	9,804	NA	r15,084	14,776	13,982	13,088
Other bituminous:							
Electric utility	109,707	117,468	NA	r146,171	141,691	136,993	131,308
General industry	8,504	6,900	NA	9,495	9,248	8,896	8,425
Total other	118,211	124,368	NA	155,666	150,939	145,889	139,713
Total bituminous	126,882	134,172	NA	170,750	165,715	159,871	152,801

	Weekly average		Week ending				
	January 1976	January 1977	Jan. 7, 1978	Jan. 14, 1978	Jan. 21, 1978	Jan. 28, 1978	Feb. 4, 1978
Total bituminous coal production**	11,627	9,520	5,755	r5,260	r5,045	r4,970	5,440
Consumption:							
Metallurgical***	1,505	1,428	1,291	1,192	1,221	1,161	1,129
Other bituminous:							
Electric utility	9,009	9,730	9,359	9,652	9,763	9,765	9,386
General industry	1,211	1,442	1,220	1,298	1,199	1,152	1,185
Total other	10,220	11,172	10,579	10,950	10,962	10,917	10,571
Total bituminous	11,725	12,600	11,870	12,142	12,183	12,078	11,700
Bituminous coal stocks (end of specified periods):							
Metallurgical***	8,115	8,107	11,992	10,900	9,771	8,821	r7,772
Other bituminous:							
Electric utility	104,456	103,883	126,268	119,399	112,535	105,945	r99,244

	Week ending						
	Feb. 11, 1978	Feb. 18, 1978	Feb. 25, 1978				
General industry	6,425	5,960	8,046	7,579	7,246	6,811	6,484
Total other	110,881	109,843	134,314	126,978	119,781	112,756	r105,728
Total bituminous	118,996	117,950	146,306	137,878	129,552	121,577	r113,500

	Week ending						
	Feb. 11, 1978	Feb. 18, 1978	Feb. 25, 1978				
Total bituminous coal production**	r6,110	6,570	6,680				

TABLE 7.—Continued

[For week ending Feb. 25, 1978]

	Week ending		
	Feb. 11, 1978	Feb. 18, 1978	Feb. 25, 1978
Consumption:			
Metallurgical***	1,069	1,035	970
Other bituminous:			
Electric utility	9,479	8,923	8,660
General industry	1,189	1,188	1,167
Total other	10,668	10,111	9,827
Total bituminous	11,737	11,146	10,797
Bituminous coal stocks (end of specified periods):			
Metallurgical***	6,888	6,024	5,439
Other bituminous:			
Electric utility	92,937	87,692	83,398
General industry	6,121	5,882	5,706
Total other	99,058	93,574	89,104
Total bituminous	105,946	99,598	94,543

* Data on coke of coal production, consumption, and stocks are not available on a weekly basis.
**More detailed production data are not available.
***More detailed data in terms of volatile content are not available.
[r]Revised.

Data Source: Department of Energy.

[FR Doc. 78-7723 Filed 3-20-78; 2:24 pm]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

DUGWAY PROVING GROUND, UTAH

Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on March 24, 1978, provided the Environmental Protection Agency with the Draft Environmental Impact Statement concerning Operation of the Drill and Transfer System at Dugway Proving Ground, Utah.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Project Manager for Chemical Demilitarization and Installation Restoration, Building E-4585, Attention: DRCPM-DR-T (LTC Robert L. Hanson), Aberdeen Proving Ground, Md. 21010, telephone 301-671-2270.

In the Washington area, inspection copies may be seen at the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone 202-694-1163.

Dated: March 17, 1978.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-7934 Filed 3-24-78; 8:45 am]

[3810-71]

Department of the Navy

CONTINUED UTILIZATION OF KAHOOLAWE ISLAND, HAWAII, FOR WEAPONS TRAINING BY THE UNITED STATES ARMED FORCES

Public Hearings and Availability of the Draft Supplement to the 1972 Final Environmental Impact Statement (EIS); Correction

In FR Doc. 78-6997 appearing at page 10969 in the issue for Thursday, March 16, 1978, the following corrections should be made:

1. On page 10969, in the first column, under the date "APRIL 10, 1978" the address "Wailuku Public Library, Wailuku, Maui, Hawaii" is corrected to read "Kahului Public Library, Kahului, Maui, Hawaii."

2. On page 10969, in the second column, under the date "APRIL 11, 1978" the address "Wailuku Public Library, Wailuku Maui, Hawaii" is corrected to read "Kahului Public Library, Kahului, Maui, Hawaii."

Dated: March 22, 1978.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-7966 Filed 3-24-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

March 6 through March 10, 1978

Notice is hereby given that during the period March 6 through March 10, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September

14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours at 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

March 17, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administative Review.

PROPOSED DECISIONS AND ORDERS

Damson Oil Corp., Houston, Tex., DXE-0533 crude oil

Damson Oil Corp. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of the exception relief previously granted and would permit the firm to continue to sell the crude oil produced from the City of Los Angeles Lease No. 135 (the Venice Beach Lease) at upper tier ceiling prices. On March 7, 1978, the DOE issued a Proposed Decision and Order which granted exception relief to the extent that Damson would be permitted to sell 75.15 percent of the crude oil produced from the Venice Beach Lease at upper tier ceiling prices for a six month period of time.

Quest Oil Co., Denver, Colo., DEE-0074, crude oil

Quest Oil Co. filed an Application for Exception from the provisions of 10 CFR 212.74. The exception request, if granted, would permit Quest to sell the crude oil which it produced from the Wilson No. 1 well, located in Banner County, Nebr., at market prices. On March 10, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception request be denied.

Smith's Bottled Gas, Bruceton Mills, W. Va., FEE-4846, propane

Smith's Bottled Gas filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would result in the issuance by the DOE of orders (i) assigning Smith's a new, lower-priced supplier of propane to replace its base period supplier, and (ii) increasing Smith's base period use of propane. On March 10, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Sun Co., Inc., Dallas, Tex., FEE-4837, natural gas liquids

Sun Co., Inc., filed an Application for Exception from the provisions of 10 CFR 212.162. The exception request, if granted, would permit Sun to use the current contract sales price of its residue gas as the cost of natural gas shrinkage. On March 10, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Superior Linen and Appeal Services, Inc., Cincinnati, Ohio, DEE-0203, propane

Superior Linen and Appeal Services, Inc. filed an Application for Exception from the provisions of 10 CFR 211.12(g). The exception request, if granted, would permit Superior to use volumes of imported propane in its facilities. On March 10, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Valley Oil Corp., Staunton, Va., DEE-0119, motor gasoline

Valley Oil Corp., filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Valley to sell motor gasoline at prices in excess of the maximum permissible levels specified in 10 CFR 212.93. Valley also requested that this relief be granted retroactively as of November 1, 1973. On March 10, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy has issued Proposed Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases.

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Getty Oil Co	DEE-0445	Bayou Sale	St. Mary Parish, La	$0.0469
National Helium Corp	DXE-0515	Liberal, Kan	Seward County, Kan	.0201
Phillips Petroleum Co	DEE-0485	Sanford	Hutchinson County, Tex	.0201
	DEE-0486	Sneed	Moore County, Tex	.0077
	DEE-0487	Hansford/Sherman	Hansford County, Tex	.0069
Trend Exploration, Ltd	DEE-0394	Moffat County	Moffat County, Colo	.0429
W. R. Grace & Co	DEE-0262	Spring Valley	Garfield County, Okla	.01440

[FR Doc. 78-7796 Filed 3-24-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

CAROLINA POWER & LIGHT CO.

[Docket No. ER78-247]

Notice of Filing

MARCH 20, 1978.

Take notice that Carolina Power & Light Co. on March 13, 1978, tendered for filing changes outlined below in its agreements with certain electric membership corporations and the City of Wilson.

1. *Central EMC*—The establishment of a new point of delivery at 115 KV to be known as Manchester.

2. *Lumbee River EMC*—The establishment of a new point of delivery at 115 KV to be known as West Lumberton.

3. *Pee Dee EMC*—A revised Exhibit A to incorporate an increase in the maximum demand allowed at the Roberdell Point of Delivery.

4. *Piedmont EMC*—The termination and cancellation of the South Roxboro 12 KV Point of Delivery. The load previously served at this point of delivery was transferred to the Roxboro 115 KV Point of Delivery.

5. *City of Wilson*—A contract amendment to FERC No. 90 to incorporate in the Service Agreement delivery of metering pulse information to the City.

It is proposed that these changes become effective 30 days after the date of filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7942 Filed 3-24-78; 8:45 am]

[6740-02]

[Docket No. ER78-243]

FLORIDA POWER CORP.

Notice of Cancellation

MARCH 20, 1978.

Take notice that Florida Power Corp., on March 9, 1978, filed a Notice of Cancellation which terminates certain service to the Sebring Utilities Commission on April 1, 1978. Florida Power indicates that it has provided firm service pursuant to a letter of commitment under Schedule D of its Contract for Interconnection and Electric Service with the Sebring Utilities Commission and that this letter agreement expired by its own terms on November 30, 1977, and the parties agreed to continue such service under the same terms to April 1, 1978.

According to Florida Power, copies of the filing were served upon the City of Sebring Utilities Commission and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7943 Filed 3-24-78; 8:45 am]

[6740-02]

[Docket No. ER78-248]

HOLYOKE WATER POWER CO.

Notice of Filing of Agreement Supplementing Electric Service Agreement

MARCH 20, 1978.

Take notice that the Holyoke Water Power Co. ("Holyoke"), on March 13, 1978, tendered for filing a proposed Agreement which supplements its Electric Service Agreement with the City of Chicopee, Massachusetts Municipal Lighting Plant ("Chicopee") (FERC No. 5). Holyoke indicates that pursuant to the Agreement, Chicopee assigns to Holyoke its interest in the Vermont Yankee and Maine Yankee nuclear generating units and the parties agree to appropriate adjustments of bills for service rendered pursuant to the Electric Service Agreement. Holyoke and Chicopee are participants in the New England Power Pool ("NEPOOL") and the proposed Agreement is designed to facilitate dispatch and billing arrangements for Holyoke, Chicopee and NEPOOL.

Holyoke requests that the proposed Agreement be permitted to become effective as of November 1, 1977, the date upon which NEPOOL billing arrangements were changed, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served by Holyoke upon Chicopee, the only other party receiving service under the Electric Service Agreement, according to Holyoke.

Any person desiring to be heard or to make any protest with reference to said Agreement should on or before April 3, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file a petition to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-7944 Filed 3-24-78; 8:45 am]

[6740-02]

[Docket No. RI77-134]

LEACH BROTHERS, INC.

Order Granting Special Relief

MARCH 20, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transfered to the FERC by the section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On September 12, 1977, Leach Brothers, Inc. (Petitioner), 13801 Preston Road, Suite 714-E, Dallas Tex. 75240, filed in Docket No. RI77-134 a petition for special relief pursuant to section 2.76 of the Commission's Statements of General Policy and Interpretation (18 CFR § 2.76). Petitioner sought Commission authorization to collect a rate of $1.75 per Mcf for sales of gas to United Gas Pipe Line Co. (United) from the T.N. Mauritz No. 1 and No. 2 Wells in the North Laward Field, Jackson County, Tex. The Commission noticed the petition on September 30, 1977, and provided that the period for filing protests and petitions to intervene should expire on October 21, 1977. On October 19, 1977, United

filed a timely petition for leave to intervene in support of the petition. On January 30, 1978, Petitioner filed an amended petition in this docket, changing the requested special relief rate from $1.75 per Mcf to $1.23 per Mcf. The amended petition was noticed on February 17, 1978. No protests or petitions for leave to intervene have been filed.

Petitioner received a certificate of public convenience and necessity for this sale on January 21, 1960, and its contract with United was accepted as its FPC Gas Rate Schedule No. 1. Petitioner is presently making this sale pursuant to a small producer certificate issued on November 19, 1971, in Docket No. CS72-181.

As support for the requested rate, Petitioner cites additional investments in the amount of approximately $12,110 for the purchase of dehydration and compressor facilities for the No. 1 well. In addition, petitioner spent $25,041 in October, 1976 for an unsuccessful workover on the No. 2 well. Furthermore, Petitioner proposes to invest $30,000 on each well for an "up the hole" workover on each well.

With respect to petitioner's investment for dehydration and compression equipment, Staff is of the opinion that $7,586 is a reasonable expenditure. Staff also believes that the $25,042 investment in the unsuccessful workover on Well No. 2, made by Petitioner in October 1976, should not be included in this case. Furthermore, Staff takes the position that the $80,000 expenditure for proposed workovers should be excluded, inasmuch as Petitioner has presented no data or evidence that additional reserves would be produced as a result of the proposed workovers. According to Staff, Petitioner has a remaining net book investment of $10,660.

The Commission Staff estimates Petitioner's initial yearly operating expenses for these leases to be $20,768. Allowing for a one-time line purging operation at a cost of $5,000, along with a cost of $1,736 for compressor fuel, with a 5 percent annual inflation factor, Staff estimates that Petitioner's total operating expenses over the 2.0833 years life of the project will be $51,218.

Staff has considered the above cost estimates along with the estimated volumes of 63,992 Mcf of gas attributable to petitioner's 82.03125 percent net working interest, and has made a traditional cost study of the project. The results of Staff's analysis indicate that the rate required to permit petitioner to recover its allowable costs along with a 15 percent rate of return is $1.23 per Mcf. Accordingly, Staff has concluded that petitioner's amended petition for special relief should be granted.

Upon review of Petitioner's costs, the reserves to be recovered, and Staff's analysis of the case, we determine that it is in the public interest to grant this petition for special relief.

The commission orders: (A) The petition for special relief, as amended, filed by Leach Brothers, Inc. is hereby granted.

(B) Petitioner is hereby authorized to charge and collect a total rate of $1.23 per Mcf at 14.65 psia for the sale of natural gas from the T. N. Mauritz No. 1 Well and the T. N. Mauritz No. 2 Well to United effective on the date of this order subject to the conditions specified in paragraph (C) below.

(C) Within 30 days of the effective date specified above, Leach Brothers, Inc. shall file an executed contract amendment with United providing for a total rate of $1.23 per Mcf, and a notice of independent producer rate change reflecting the rate authorized above. Leach Brothers, Inc. shall also file a statement signed by United that the compression and dehydration facilities have been installed to United's satisfaction.

(D) United is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* That the admission of United in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that United agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 7945 Filed 3-24-78; 8:45 am]

[6740-02]

MICHIGAN WISCONSIN PIPE LINE CO.

[Docket No. RP73-14 (PGA78-2) (DCA78-1)]

Notice of Proposed PGA and DCA Rate Changes

MARCH 20, 1978.

Take notice that on March 15, 1978, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) tendered for filing Nineteenth Revised Sheet No. 27F to its FERC Gas Tariff, Second Revised Volume No. 1. Michigan Wisconsin proposed an effective date of May 1, 1978 for said revised sheet.

The Company states that the foregoing tariff sheet reflects (1) a commodity increase of 8.25 cents per Mcf to reflect principally the combined effect of (a) the replacement of old sources of gas supply with higher priced new gas, (b) contractural increases and escalations due to producers under Opinion Nos. 699, 749 and 770, (c) an increased Oklahoma Conservation tax of 7 cents per Mcf which became effective January 1, 1978 and, (d) a rate reduction by Midwestern Gas Transmission Co. due to variations in the Canadian exchange rate; (2) a commodity increase of 4.81 cents in the surcharge level which will recover a reduced level of deferred costs from those recovered through the November 1, 1977 surcharge but over a lesser volume, and; (3) a commodity reduction of .86 cents per Mcf in the Demand Charge. Adjustment for the period May through October, 1978.

Michigan Wisconsin further states that it requests a waiver of the requirements of part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Nineteenth Revised Sheet No. 27F to be made and to become effective May 1, 1978. However, in the event the Commission does not accept Nineteenth Revised Sheet No. 27F to become effective May 1, 1978, Michigan Wisconsin requests that Alternate Nineteenth Revised Sheet No. 27F, which excludes .02 cents from the surcharge adjustment representing the cost of emergency purchases above rates perscribed by Opinion No. 770-A, be accepted and Nineteenth Revised Sheet No. 27F be suspended for one day to become effective May 2, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 7, 1978. Protests will be considered by the Commission indetermining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7946 Filed 3-24-78; 8:45]

[6740-02]

[Docket No. ER78-237]

MONTANA POWER CO.

Notice of Filing

MARCH 20, 1978.

Take notice that Montana Power Co. on March 1, 1978, tendered for filing Original Sheet No. 10 of the FPC Elec-

tric Tariff M-1, which has been revised to show the addition of Tri-State Generation and Transmission, and a summary of sales made under the Company's FPC Electric Tariff M-1 during January, 1978, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitons or protests should be filed on or before March 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7947 Filed 3-24-78; 8:45 am]

[6740-02]

[Docket No. ER78-245]

VIRGINIA ELECTRIC & POWER CO.

Notice of Filing

MARCH 20, 1978.

Take notice that Virginia Electric & Power Co. (VEPCO) on March 13, 1978, tendered for filing a Letter Agreement dated February 9, 1978 in which VEPCO agrees to continue providing the City of Washington, North Carolina with 12.5 kV and 34.5 kV service without Excess Facilities Charge through December 31, 1980.

VEPCO requests that the Commission waive its notice requirements and allow the Letter Agreement to become effective on February 13, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7948 Filed 3-24-78; 8:45 am]

[6740-02]

[Docket No. ER78-246]

WASHINGTON WATER POWER CO.

Notice of Tender of Agreement

MARCH 20, 1978.

Take notice that on March 13, 1978, the Washington Water Power Co. (Washington), tendered for filing copies of a "Letter Agreement" between Washington and Utah Power & Light Co. (Utah), which applies to the sale of energy to Utah during the month of March 1978. The energy deliveries will displace coal-fired generation on Utah's system, according to Washington.

Washington requests that the requirements of prior notice be waived and that the effective date be made retroactive to March 1, 1978, adding that there would be no effect upon purchasers under other rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on on before April 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7949 Filed 3-24-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 871-8; OPP-50362]

E. I. DU PONT DE NEMOURS & CO., ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 352-EUP-94. E. I. du Pont de Nemours & Co., Wilmington, Del. 19898. This experimental use permit allows the use of the remaining supply of approximately 1,260 pounds of the herbicide 3-cyclohexyl- 6-(dimethylamino)-1-methyl-S-triazine-2,4(1H,3H)-dione in ponds to evaluate control of aquatic weeds. A total of 245 surface pond acres is involved; the program is authorized only in the States of Colorado, Florida, Illinois, Indiana, Louisiana, Michigan, Mississippi, Missouri, New Jersey, Pennsylvania, and Texas. The experimental use permit is effective from December 10, 1977 to December 10, 1979. This permit is being issued with the restriction that treated water will not be used for human or animal consumption, and that fish from water treated with this product will not be used for food or feed.

No. 2224-EUP-5. Mobil Chemical Co., Richmond, Va. 23261. This experimental use permit allows the use of the 1,122 pounds of the herbicide bifenox on soybeans to evaluate control of various weeds. A total of 581 acres is involved; the program is authorized only in the States of Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin. The experimental use permit is effective from February 10, 1978 to February 10, 1979. A permanent tolerance for residues of the active ingredient in or on soybeans has been established (40 CFR 180.351).

No. 2224-EUP-15. Mobil Chemical Co., Richmond, Va. 23261. This experimental use permit allows the use of 528 pounds of the nematocide/insecticide ethoprop on tobacco to evaluate control of nematodes, wireworms, and flea beetles. A total of 44 acres is involved; the program is authorized only in the States of Florida, Georgia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, and Virginia. The experimental use permit is effective from February 14, 1978 to February 14, 1979.

No. 2693-EUP-1. International Paint Co., Inc., Union, N.J. 07083. This experimental use permit allows the use of a formulation containing 11,660 pounds of Bis(tributyltin) oxide and 16,960 pounds of copper thiocyanate as a self-polishing copolymer antifouling paint for ship hulls. Application will be made on three (3) full ships; the program is authorized in the forty-eight contiguous States. The program is effective from February 8, 1978 to February 8, 1979.

No. 27586-EUP-19. U.S. Department of Agriculture, Washington, D.C. 20250. This experimental use permit allows the use of the remaining supply of an insecticide which is a mixture of 575 pounds of technical malathion and 1,700 pounds of methyl eugenol impregnated on cigarette filter tips on undeveloped grassland, scrub, and areas where there is no permanent human habitation for evaluation of control of melon, Oriental, and Mediterranean fruit flies. A total of 9,600 acres is involved; the program is authorized only in the State of Hawaii. The experimental use permit is effective from July 13, 1978 to January 22, 1979.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (MH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspec-

tion from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dates: March 20, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-7907 Filed 3-24-78; 8:45 am]

[6560-01]

[FRL 872-1; OPP-50363]

MOBIL CHEMICAL CO., ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 2224-EUP-12. Mobil Chemical Co., Richmond, Va. 23261. This experimental use permit allows the use of 1.533 pounds of the nematocide/insecticide ethoprop on peanuts, soybeans, and corn to evaluate control of corn rootworm, wireworm, and nematodes. A total of 404 acres is involved; the program is authorized only in the States of Alabama, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Wisconsin, and Virginia. The experimental use permit is effective from April 16, 1978 to April 16, 1979. Permanent tolerances for residues of the active ingredient in or on soybeans, corn (field and sweet), and peanuts have been established (40 CFR 180.262).

No. 2224-EUP-13. Mobil Chemical Co., Richmond, Va. 23261. This experimental use permit allows the use of 667 pounds of the nematocide/insecticide ethoprop on tomatoes, corn, cabbages, and cucumbers to evaluate control of flea beetle larvae, rootworm, wireworm, string nematode, and rodknot. A total of 265 acres is involved; the program is authorized only in the States of California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, and Wisconsin. The experimental use permit is effective from February 17, 1978 to February 17, 1979. Permanent tolerances for residues of the active ingredient in or on corn (field and sweet), cabbages, and cucumbers have been established (40 CFR 180.262). This permit is being issued with the limitation that treated tomatoes will be destroyed or used for research purposes only.

No. 6704-EUP-15. U.S. Department of the Interior, Washington, D.C. 20240. This experimental use permit allows the use of 1,000 pounds of the avicide N-(3-chloro-4-methylphenyl) acetamide on roosts to evaluate control of blackbirds and starlings. A total of 120 acres is involved; the program is authorized only in the States of Arkansas, Kentucky, Mississippi, Missouri, Tennessee, and Texas. The experimental use permit is effective from February 21, 1978 to February 21, 1979.

No. 20954-EUP-5. Zoecon Corp., Palo Alto, Calif. 94304. This experimental use permit allows the use of the remaining supply of approximately 346.9 pounds of the insecticide methoprene in non-fish bearing waters as a mosquito growth regulator to evaluate control of adult mosquito emergence. A total of 163 aquatic acres is involved; the program is authorized only the States of Arizona, Arkansas, California, Florida, Georgia, Illinois, Louisiana, Minnesota, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, and Washington. The experimental use permit is effective from April 7, 1978 to April 7, 1979. This permit is being issued with the limitation that no applications are made to potable water sources.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH—567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: March 20, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-7908 Filed 3-24-78; 8:45 am]

[6560-01]

[FRL 871-7; OPP 180176]

STATES OF OREGON AND WASHINGTON

Issuance of Specific Exemptions To Use Pydria To Control Pear Psylla in Oregon and Washington

The Environmental Protection Agency (EPA) has granted specific exemptions to the Oregon Department of Agriculture and the Washington State Department of Agriculture (hereafter referred to as "Oregon" and "Washington") to use Pydrin as a dormant or pre-bloom treatment to control Pear Psylla (*Psylla pyricola*) on pears in these two States. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-316, Washington, D.C. 20460.

According to Oregon and Washington, pear psylla is a very serious and difficult pest to control. It was first detected west of the Rocky Mountains in 1939, and has since migrated to the major pear-producing counties in Oregon, Washington, and California. The insect has three distinct developmental forms: the egg, the nymph, and the adult. In addition to a spring generation, there are three summer generations of this pest in Oregon and Washington. Adults of the final summer generation are referred to as the over-wintering adults; they survive the winter in cracks and crevices of the bark and buds of pears and other trees. Although adults may be found on many different hosts, development of the immature insect only occurs on pears.

Pear psylla causes serious damage, such as pear decline, decreased tree vitality, leaf blackening and leaf drop, tree death, fruit russeting, and reduced fruit size. An estimated 23,500 acres of pears in Oregon and 26,000 acres in Washington will require treatment.

According to Oregon and Washington, chemical control of pear psylla begins well before the growing season. In most orchards both a dormant and delayed-dormant (pre-bloom) spray of superior oil plus an insecticide(s) are applied to kill over-wintering adult psylla before they lay their eggs. Because there is little dispersal of pear psylla during the summer months, an effective dormant treatment is extremely important to reduce future summer populations. During the last ten years, perthane and endosulfan have been used in the pre-bloom program to reduce adult psylla populations; however, Oregon and Washington stated that these chemcials have lost their effectiveness in controlling over-wintering adults. For example, endosulfan seems to be effective only during the early nymphal stages; pear psylla have also developed resistance to organophosphates. Therefore, the current problem is the unavailability of an efficacious pesticide to control the pest during the summer growing season. The problem has been extenuated by the withdrawal of chlordimeform from the market; this pesticide had previously been effective in providing control during this season. Although chlordimeform is still registered for the proposed use, it was not available to pear growers last year and will be unavailable again this year.

Oregon and Washington proposed to use Pydrin (Cyano (3-phenoxyphenyl)

methyl- 4-chloro- alpha- (1-methylethyl) benzeneacetate). Applications will be made by air and ground; it is anticipated that most applications will be made from the ground because the insects are found on the underside of leaves and would be difficult to contact by air. It is estimated that if an effective pesticide is not applied during the pre-bloom stage, economic losses resulting from the downgrading and culling of fruit, from tree losses due to pear decline, and from increased chemical costs, will run as high as $4,033,000 in Oregon and $10,000,000 in Washington. Washington ranks second in the nation in pear production; Oregon ranks third.

Because of the practice of interspersing apple trees amongst pear trees, contamination of some apple trees with Pydrin will occur. Pear psylla is not a problem on apples, and therefore, apples will be treated only when they are interplanted with pears.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of pear psylla is likely to occur; (b) there is no pesticide presently registered and available for use to control the pear psylla in Oregon and Washington; (c) there are not alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Oregon and Washington have been granted specific exemptions to use the pesticide noted above, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. Pydrin may be applied at a rate of up to 0.4 pound active ingredient per acre per application at the dormant or pre-bloom crop stage;

2. A maximum of two applications may be applied;

3. Applications will be made with ground or air equipment;

4. Spray mixture volumes of 3-20 gallons will be applied by aircraft or 25-400 gallons by ground equipment;

5. In Oregon, a maximum of 23,500 acres of pears may be treated. In Washington, a maximum of 26,000 acres of pears may be treated;

6. Pear orchards which are interplanted with apples may be treated as specified above;

7. All applications are limited to the commercial pear-growing regions in Oregon and Washington;

8. In Oregon, all applications will be made by growers using their own equipment or by commercial applicators under the directions of qualified Oregon State University research specialists and extension agents. In Washington, all applications will be made by qualified growers with instructions furnished by the Washington State University Extension Service or by commercial applicators;

9. The orchard floor will not be grazed by livestock;

10. Pydrin is highly toxic to fish and aquatic invertebrates. Precautions will be taken to avoid contamination of lakes, streams, and ponds;

11. Precautions will be taken to avoid spray drift to non-target areas;

12. Pears and apples with residue levels of Pydrin not exceeding 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. All applicable directions, restrictions, and precautions on the product label must be followed;

14. Both Oregon and Washington are responsible for assuring that all of the provisions of these specific exemptions are met and must submit reports summarizing the results of these programs by October 31, 1978; and

15. The EPA shall be immediately informed of any adverse effects resulting from the use of Pydrin in connection with these exemptions.

16. In Oregon, the specific exemption expires on April 15, 1978. In Washington, the specific exemption expires on May 30, 1978.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).)

Dated: March 21, 1978.

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

[FR Doc. 78-7906 Filed 3-24-78; 8:45 am]

[6560-01]

[FRL 872-6]

NATIONAL AMBIENT AIR QUALITY STANDARD FOR NITROGEN DIOXIDE (SHORT-TERM)

Meeting

EPA will hold a public meeting on April 19, 1978, to receive comments relevant to determining a short-term National Ambient Air Quality Standard for Nitrogen Dioxide. The meeting will begin at 9 a.m. in Room 2814 A & B, U.S. Environmental Protection Agency, Waterside Mall, 401 M Street SW., Washington, D.C.

In 1971, EPA promulgated a National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO_2) at a level of 0.05 ppm (100 $\mu g/m^3$), annual average. Since the promulgation of this long-term standard, scientific studies have suggested that some adverse health effects of NO_2 are associated with short-term peak exposures rather than chronic exposure to lower levels. In the 1977 Amendments to the Clean Air Act, Congress directed EPA to review the scientific basis for a short-term standard and promulgate such a standard unless it could be shown that a standard was not requisite to protect public health from short-term exposure to NO_2.

EPA's Office of Research and Development subsequently prepared a draft summary of the scientific basis for a short-term standard in the criteria document, *"Health Effects for Short-Term Exposure to Nitrogen Dioxide"* (draft). This document was issued as an external review draft in December 1977, and is available from: Criteria and Special Studies Office, MD-52, Research Triangle Park, N.C. 27711. Telephone: 919-541-2266; FTS 629-2266.

The draft health effects document was reviewed by a sub-committee of EPA's Science Advisory Board, in a public meeting on February 22, 1978. A rough transcript of this meeting is available for copying or inspection at the EPA Public Information Records Unit, Room 2922, Waterside Mall, 401 M Street, SW., Washington, D.C. as well as at EPA regional libraries. From the scientific data base provided by the health effects document and the SAB review, EPA's Office of Air Quality Planning and Standards (OAQPS) is now preparing its proposal for the level and period of a short-term standard.

The critical health effects associated with short-term exposure to NO_2 appear to be pulmonary function and reduced resistance to respiratory infection. Clinical studies reported in the criteria document indicate that pulmonary effects are associated with exposures above a threshold of 1.5 ppm (2820 $\mu g/m^3$). These chamber studies involved healthy subjects and bronchitics but not individuals who, by virtue of other respiratory conditions, might be more sensitive to NO_2. Studies in laboratory animals show a threshold for reduced resistance to infection at 0.5 ppm (940 $\mu g/m^3$), but this level is not easily translated into a human threshold. Epidemiological studies associate increased incidence of respiratory disease with higher levels of NO_2 in the air, and suggest 0.5 ppm (940 $\mu g/m^3$) as a threhold, but unreliable or absent air monitoring data make it difficult to determine a threshold level from these studies.

One study of controversial significance shows health effects in humans at one-hour concentrations as low as 0.1 ppm (188 $\mu g/m^3$). In this study, changes in pulmonary function due to NO_2 exposure were detected in asthmatics who were first given a dose of a strong broncho-constricting agent. The interpretation of this study in the criteria document and at the SAB review meeting suggests that this lower threshold is not appropriate as the basis for an air quality standard. Questions have been raised concerning the conduct of the studies and the revelance of this sensitive experimental technique to typical exposures to NO_2 in the ambient air.

On the basis of the scientific data and interpretation now available, EPA's staff is considering recommend-

ing the proposal of a standard in the range of 0.25 to 0.50 ppm (470 μg to 940 μg/m³), one-hour average. EPA invites comments and information from the public relevant to the interpretation of the scientific data presented in the criteria document for the purpose of establishing this standard.

All persons wishing to make oral presentations at the April 19, 1978, meeting should contact the person whose name and address appear in the final paragraph of this notice by April 14, 1978; those who wish to submit written material are requested to send it to the same address postmarked no later than May 1, 1978. All comments received will be available for inspection and copying during normal working hours at the U.S. Environmental Protection Agency's Public Information and Reference Unit in Room 2922, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460

All communications or correspondence should be addressed to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD-12), Research Triangle Park, N.C. 27711, Attn: Mr. Joseph Padgett, 919-541-5204.

Dated: March 21, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air and Waste Management.

[FR Doc. 78-8007 Filed 3-24-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Meeting

MARCH 15, 1978.

Pursuant to section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Monday, April 17, Tuesday, April 18, and Wednesday, April 19, 1978. The meeting will commence at 9 a.m. on April 17, 18, and 19, at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C., in the Sixth Floor Board Room.

MONDAY, APRIL 17

9 a.m.—Discussion by Office of Community Investment; Flip and Alternative Mortgage Instruments Proposal; FSLIC Premium Costs; Reduction of Liquidity Requirements; Federal Home Loan Bank System Advances and Obligations.

1 p.m.—Part-time Limited Branch Facility; Dormant Accounts; Capital Stock Included as FIR; FHLBB Long-Term Fixed Rate Advances; Reserve Regulation on Land Development Loans; Loans on Individual Lots.

TUESDAY, APRIL 18

9 a.m.—Continued discussion of Monday afternoon topics.

1 p.m.—General discussion.

WEDNESDAY, APRIL 19

9 a.m.—General discussion.

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

ROBERT H. MCKINNEY,
Chairman.

[FR Doc. 78-7920 Filed 3-24-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

Edward Schmeltzer et al

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 17, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: T-3092-A-1.

FILING PARTY: Mr. Edward Schmeltzer, Schmeltzer, Aptaker & Sheppard, P.C., 1150 Connecticut Avenue, NW., Suite 305, Washington, D.C. 20036.

SUMMARY: Agreement No. T-3092-A-1, between Philadelphia Port Corp., and I.T.O. Corp., of Ameriport, Inc., (I.T.O.) amends the basic agreement between the parties which provide for the 30-year sublease of certain premises at Tioga I Marine Terminal. The purpose of the amendment is to increase the land area to 20.797 acres of land and provide for certain improvements which include site preparation, drainage, paving, fencing, lighting, a container repair shed and a U.S. Customs inspection facility. As compensation, the annual rental will increase from $103,985 for the first five years to $129,984 for the last five years. In addition, I.T.O. will pay 10.36 percent of the Capital Costs of the improvements covered by this modification. An insurance provision of the basic agreement is amended by increasing the dollar value of the coverage by 80 percent of the insurable reproduction cost of these improvements.

AGREEMENT NO.: T—3536-1.

FILING PARTY: Dwight Green, traffic Consultant, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Fla. 33404.

SUMMARY: Agreement No. T-3536-1, between Port of Palm Beach District and Caribbean Lines Corp. (CLC), modifies the basic agreement which provides for the renewable, one-year lease of certain facilities to be used as warehouse space at the Port of Palm Beach, Fla. The purpose of the amendment is to increase the size of the premises leased under the basic agreement. As compensation, CLC will pay $645.84 per month until completion of Building A reconstruction at which time CLC will lease additional square footage and rent will increase to $751.15 per month.

AGREEMENT NO.: T-3607.

FILING PARTY: Dwight Green, Traffic Consultant, Port of Palm Beach District, P.O. Box 9935, Riviera Beach, Fla. 33404.

SUMMARY: Agreement No. T-3607, Between Port of Palm Beach District (Port) and Florida Sugar Marketing & Terminal Association, Inc., (FSMTA), provides for the 6-month renewable exclusive lease to FSMTA of warehouse space located at the Port of Palm Beach, Fla. In addition, FSMTA will be permitted the nonexclusive right to use the Port's lands and dock facilities for the loading and unloading of FSMTA vessels. As compensation, Port will receive as rent $5,427 for the initial 6-month period. FSMTA shall also be responsible for the payment of all applicable tariff charges as specified in the then current tariff published by the Port, as well as all utility charges resulting from FSMTA's operations.

AGREEMENT NO.: T-3608.

FILING PARTY: Dwight Green, Traffic Consultant, Port of Palm Beach District, P.O. Box 9935, Riviera Beach, Fla. 33404.

SUMMARY: Agreement No. T-3608, Between Port of Palm Beach District

(Port) and Birdsall, Inc., (Birdsall), provides for the 10-year renewable, exclusive lease to Birdsall of warehouse space located at the Port of Palm Beach, Fla. In addition, Birdsall will be permitted the nonexclusive right to use the Port's lands and dock facilities for the loading and unloading of Birdsall vessels. As compensation, Port will receive as rent $9,200 per year. Birdsall shall also be responsible for the payment of all applicable tariff charges as specified in the then current tariff published by the Port, as well as all utility charges as a result of Birdsall's operations.

AGREEMENT NO.: T-3609.

FILING PARTY: Maxim M. Cohen, General Manager, Chicago Regional Port District, Butler Drive—Lake Calumet Harbor, Chicago, Ill. 60633.

SUMMARY: Agreement No. T-3609, between Chicago Regional Port District (Port) and Ceres Terminals, Inc., (Ceres), provides for the 5-year lease of certain premises including Transit Shed No. 1, open paved area and open bulk area at the west end of the Lower Anchorage Basin on Lake Calumet, Chicago, Ill., to be used for the purpose of operating a ship, barge, railroad and truck terminal, warehouse, and for the handling of goods and merchandise as well as commercial or industrial activities. As compensation, Ceres will pay $129,600 per annum plus regular posted Harbor dockage and wharfage charges. Port retains easement rights to construct an underground or overhead pipeline for handling liquid products from barges or vessels to an adjacent warehouse.

AGREEMENT NO.: T-3611.

FILING PARTY: David Ainsworth, Senior Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, Calif. 94105.

SUMMARY: Agreement No. T-3611, between Matson Terminals, Inc., (Matson) and Blue Star Line Ltd., (BSL), provides that Matson will perform certain container terminal services for BSL at the Port of Honolulu, Hawaii, as outlined in the agreement. As compensation for the above services, BSL agrees to pay Matson in accordance with the rate schedules attached to the agreement and filed with the Commission for information purposes.

Dated: March 22, 1978.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-7975 Filed 3-24-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CENTRAL BANCSHARES OF THE SOUTH, INC.

Acquisition of Bank

Central Bancshares of the South, Inc., Birmingham, Ala., has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bank of Springville, Springville, Ala. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 17, 1978.

Board of Governors of the Federal Reserve System, March 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7950 Filed 3-24-78; 8:45 am]

[6210-01]

ILLINI BANCORP, INC.

Formation of Bank Holding Company

Illini Bancorp, Inc., Danville, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of the First National Bank of Danville, Danville, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than April 17, 1978.

Board of Governors of the Federal Reserve System, March 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7951 Filed 3-24-78; 8:45 am]

[6210-01]

[Docket No. R-0148]

Policy Statement Concerning Use of Inside Information

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: This policy statement reflects the judgment of the Board of Governors of the Federal Reserve System that the use of material inside information by any State member bank in connection with any decision or recommendation to purchase or sell securities constitutes an unsafe and unsound banking practice. Notification is given that the Board of Governors expects each State member bank exercising investment discretion for the accounts of others to adopt written policies and procedures suitable to its particular circumstances to ensure that such information in its possession is not misused. Guidelines are provided to aid State member banks in the development of such policies and procedures.

EFFECTIVE DATE: March 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, 202-452-2782, or Robert A. Wallgren, Chief, Trust Activities Program, 202-452-2717, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: This policy statement is issued pursuant to the board's supervisory authority over State member banks contained in section 9 (12 U.S.C. 321) and section 11 (12 U.S.C. 248(a)) of the Federal Reserve Act and the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b)) and related provisions of law.

STATEMENT OF POLICY CONCERNING USE OF INSIDE INFORMATION

Commercial banks may receive information about their customers that is not otherwise available to the public. In many cases, customers about which the bank possesses confidential information are firms whose securities are publicly traded. Full-service commercial banks, being institutions that provide a diversity of services, may, at the same time such confidential information is in their possession, be effecting purchases or sales of such securities for trust customers and others and advising customers as to the purchase or sale of such securities.

Where confidential information in the possession of a person is "material" (i.e., is of such nature that there is

a substantial likelihood that a reasonable investor would consider it important in deciding whether to buy, sell, or hold securities), Federal securities law generally prohibits the purchase or sale of pertinent securities by such person until the information is disseminated to the public. A person in possession of such material inside information must, before effecting transactions in the affected security, disclose to the public such information or, if unable to do so (e.g., in order to protect a corporate confidence), must abstain from trading in or recommending such securities until the information is disclosed. Similarly, divulging confidential material inside information only to one's customers who then act on the basis of the information violates Federal securities law.

For a bank to purchase or sell, or recommend the purchase or sale of, securities on the basis of material inside information in the bank's possession subjects the bank not only to injunctive suits and criminal proceedings, but also to civil damage suits by persons on the other side of the transactions. In such cases, liability may not be limited to the persons on the other side of the transactions, but conceivably could extend to all persons who effected transactions in the securities before the information became public; thus potential liability could be substantial in terms of the amount of damages that may be awarded.

Accordingly, the Board of Governors will view the use of material inside information in connection with any decision or recommendation to purchase or sell securities as an unsafe and unsound banking practice. Furthermore, the Board expects each State member bank exercising investment discretion for the accounts of others to adopt written policies and procedures, suitable to its particular circumstances, to ensure that such information in its possession is not misused.

Because the size and organizational structure of individual banks that engage in investment activities vary widely, the Board does not believe that it should, at this time, mandate the specific content of policies and procedures to be adopted. The Board believes, however, that in general such policies and procedures should limit those types of activity that are likely to give rise to an improper interchange of material inside information and establish a course of action for the bank to deal affirmatively with such information that may come into the possession of personnel engaged in investment decision making for the accounts of others. In this connection, the Board urges each State member bank to review its organizational structure and methods of operation to ensure that its policies and procedures are appropriately tailored to its circumstances. System trust examiners will be instructed to evaluate regularly the adequacy of policies and procedures adopted by individual banks.

Set forth below are examples of specific approaches to dealing with inside information that State member banks may wish to consider in the development of policies and procedures for their own use. Although more generally applicable to larger banks, (i.e., those managing assets for the accounts of others with a market value over $100 million), they may prove useful to smaller banks as well.

EXAMPLES

(1) Trust personnel (i.e., bank employees whose duties include the making of investment decisions or recommendations for fiduciary or agency accounts) should not have access to commercial credit files, government, agency, and municipal securities underwriting files or such other files that the bank can reasonably determine may contain material inside information;

(2) Trust personnel should not attend private meetings between or among personnel engaged in commercial lending activities or in underwriting government, agency, and municipal securities, on the one hand, and bank customers on the other, except where the sole purpose of the meeting is to seek a new customer relationship;

(3) Officers, directors, or employees of the bank should not serve simultaneously on any committee having responsibility for the making of investment decisions or recommendations with respect to specific transactions and any committee having responsibility for commercial lending or government, agency, and municipal securities underwriting activities, unless necessary to the circumstances of the individual bank;

(4) All trust department employees should be advised to report promptly to the management of the trust department suspected material inside information and, upon a determination by that management that the information is material, management should promptly

(a) Halt all trading by the bank in the security or securities of the pertinent issuer and all recommendations thereof;

(b) Ascertain the validity and nonpublic nature of the information with the issuer of the securities;

(c) Request the issuer or other appropriate parties to disseminate the information promptly to the public, if the information is valid and nonpublic;

(d) In the event the information is not publicly disseminated, notify the bank's legal counsel and request advice as to what further steps should be taken, including possible publication by the bank of the information, before transactions or recommendations in the securities are resumed.

(5) A copy of the bank's policies and procedures should be furnished for each fiduciary or agency account for which the bank exercises investment discretion to the person having the power to terminate the account or, if there is no such person, to the persons to whom an accounting would ordinarily be rendered.

(6) Trust personnel should be separated physically from commercial lending personnel and government, agency, and municipal securities underwriting personnel to the extent appropriate to the circumstances of the individual bank.

Board of Governors of the Federal Reserve System, March 17, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-7952 Filed 3-24-78; 8:45 am]

[6820-25]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 56]

TEXAS PUBLIC UTILITY COMMISSION AND SOUTHWESTERN BELL TELEPHONE CO.

Proposed Intervention in Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Texas Public Utility Commission involving an application of Southwestern Bell Telephone Co. for an increase in its tariffed rates for intrastate telecommunications service. The Administrator of General Services represents the interests of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before April 26, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: March 17, 1978.

JAMES B. RHOADS,
Acting Administrator of General Services.

[FR Doc. 78-7921 Filed 3-24-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

VOCATIONAL EDUCATION—STATE ADMINISTERED PROGRAMS

Notice of Interpretation

AGENCY: Office of Education, HEW.

ACTION: Notice of Interpretation.

SUMMARY: The Commissioner of Education is issuing this notice of interpretation to clarify the "excess cost" requirement for the Vocational Education State Administered Program regulations. This interpretation will eliminate the uncertainty which exists concerning the application of the "excess cost" requirement to the expenditure of funds for vocational education programs for handicapped and disadvantaged persons.

DATE: This interpretation is expected to take effect 45 days after it is transmitted to Congress. (Interpretations are transmitted to Congress 3-4 days before they are published in the FEDERAL REGISTER.) However, this date is changed by statute if Congress disapproves the interpretation or takes certain types of adjournments. If you want to know the exact effective date of this interpretation, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara H. Kemp, Division of Vocational and Technical Education, U.S. Office of Education (Room 5608, ROB-3), 7th & D Streets, SW., Washington, D.C. 20202, telephone 202-245-3465.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 110(a) of the Vocational Education Act, as amended by Title II of P.L. 94-482 (the Vocational Education Amendments of 1976), requires each State to expend at least 10 percent of its allotment under section 102(a) for the "cost of vocational education for handicapped persons." Section 110(b) requires at least 20 percent of the allotment under section 102(a) to be expended for the "cost of vocational education for disadvantaged persons . . ."

The statutory language "cost of vocational education" in section 110(a) and 110(b) was interpreted in the Notice of Proposed Rulemaking (NPRM), published on April 7, 1977 at 42 FR 18542 to mean "full cost." It was stated in the preamble at 42 FR 18549 that , as long as the State complies with the matching requirements in section 110 of the Act, the State could use the combined Federal, State and local funds to pay the entire cost of the vocational education programs for handicapped and disadvantaged persons. In other words, Federal funds for vocational education programs for handicapped and disadvantaged persons were not limited solely to the cost of special services needed by the handicapped and disadvantaged.

Many commenters believed that the interpretation contained in the NPRM was a serious misreading of Congressional intent. According to these commenters, unless the Federal and matching State and local funds were used to pay the excess costs of necessary program modifications, supplementary services, or special programs for handicapped and disadvantaged persons, the total amount of funds available to accommodate these special pupulations would be greatly reduced. These commenters suggested that the statutory language "cost of vocational education" must be read in the context of the definitions of "handicapped" and "disadvantaged" which emphasize the special services which are needed to enable handicapped and disadvantaged persons to take full advantage of the vocational education program.

Since a reduction in services for handicapped and disadvantaged persons might result by charging the full cost of the vocational education program against the required minimum, the comments in support of charging the excess costs were accepted. Accordingly, § 104.303 of the final regulations, published on October 3, 1977 at 42 FR 53822, requires the Federal and matching State and local funds to be used to pay the "excess costs" of the programs for the handicapped and disadvantaged. The term "excess costs" was interpreted generally in § 104.303 to mean the costs of special educational and related services not used or required for non-handicapped and non-disadvantaged students.

There is considerable evidence that some uncertainty exists concerning the application of this "excess cost" principle. Numerous inquiries have been submitted to the Office of Education from State education agencies and local education agencies as to whether this principle of "excess cost" applies to both mainstreamed programs and separate specilaized programs. In light of this demonstrated uncertainty, the Commissioner has determined that publication of a clarifying interpretation of the term "excess costs" in § 104.303 of the vocational education regulations will help to ensure the uniform administration of programs under the Vocational Education Act throughout the country.

INTERPRETATION

The Commissioner issues the following interpretation:

1. The State shall use, to the maximum extent possible, the funds expended for handicapped and disadvantaged persons to enable these persons to participate in regular vocational education programs (section 110(d) of the Vocational Education Act). The removal of the handicapped or disadvantaged students from the regular education environment may occur only when the nature of severity of the handicapped or disadvantaged is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. In order to achieve this end, handicapped and disadvantaged students should be placed, if possible, in a mainstreamed program.

In a mainstreamed program the handicapped or disadvantaged student is placed in a regular vocational class with non-handicapped or non-disadvantaged students. Extra support is provided to the handicapped or disadvantaged students or to the instructors in the class. This supplemental support may take the form of the assignment of special personnel to the class, special program modifications, or the provision of special remedial education instruction, counseling, or other services to the handicapped or disadvantaged students enrolled in regular classes. These additional services may be paid for out of Federal funds and matching State and local funds under section 110 (a) and (b) set-aside. For example, if, in a particular mainstreamed program, the cost of providing vocational training in electronics to the non-handicapped or non-disadvantaged student is $600, and the cost of providing supportive services in vocational training in electronics to the handicapped or disadvantaged student in the same class is $150, the State may use the combined Federal funds and State and local funds to pay only the incremental cost of $150 for vocational training in electronics for the handicapped or disadvantaged student. The matching requirement, however, applies to the aggregate of all State and local funds expended for the excess costs of programs for the handicapped and disadvantaged. There is no separate matching requirement on a program by program basis.

2. In some instances, the handicapped or disadvantaged student must be placed in a separate specialized program because the nature or severity of the handicap or disadvantage is such that the student cannot benefit from the regular vocational education program even with modifications to the program or with the provision of special supplementary aids and services. In a separate specialized program, the class is used exclusively by handicapped or disadvantaged students (including institutionalized students) who have been identified or diagnosed as having a need for specialized staff,

special educational materials or equipment, and supportive services in order to succeed in the vocational education program. Thus, to the extent a separate specialized vocational education program is warranted, the entire separate specialized program may be funded in full from the Federal and matching State and local funds under section 110(a) and (b). However, the average statewide (State and local) expenditure, per student, for handicapped persons must equal or exceed the average per student expenditure for non-handicapped persons. Likewise, the average statewide (State and local) expenditure, per student, for disadvantaged persons must equal or exceed the average per student expenditure for non-disadvantaged persons.

(Catalog of Federal Domestic Assistance No. 13.499 Vocational Education—Special Needs.)

Dated: March 22, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-7993 Filed 3-24-78; 8:45 am]

[4110-02]

Office of Education

STATE PLANNING COMMISSIONS PROGRAM—INTERSTATE PLANNING

Closing Date for Fiscal Year 1978 for Receipt of Applications from State Postsecondary Education Commissions for Statewide Comprehensive Planning Grants

Notice is hereby given that pursuant to the authority contained in section 1203(a) of title XII of the Higher Education Act of 1965, as amended (20 U.S.C. 1142b), applications from State Postsecondary Education Commissions for grants under the State Planning Commissions Program—Interstate Planning are being accepted. Such Commissions must be established pursuant to section 1202(a) of the Act and information of the establishment must have been submitted as required by the Notice of Closing Date for Receipt of Information Concerning Establishment published in the FEDERAL REGISTER on March 26, 1974, or as required by the similar notices published in the FEDERAL REGISTER on January 29, 1975, December 17, 1975, March 18, 1977, and January 30, 1978. A Notice of Allocation Formula and Program Guidelines for this program will be published in the FEDERAL REGISTER shortly.

Applications for such grants are available from the State Planning Commissions Program Office, Bureau of Higher and Continuing Education, U.S. Office of Education, Room 4052, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202. Such applications must be completed and received at the above office on or before April 28, 1978.

The applications may be returned by mail or hand delivered.

(a) *Applications returned by mail.* Applications returned by mail should be addressed to the State Planning Commissions Program Office, Bureau of Higher and Continuing Education, U.S. Office of Education, Room 4052, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202. Such applications will be considered to be received on time if:

(1) The application was sent by registered or certified mail not later than April 24, 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.)

(b) *Applications delivered by hand.* Applications to be delivered by hand must be taken to Room 4052, Regional Office Building No. 3, 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, and Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

(20 U.S.C. 1142b.)

Dated: March 24, 1978.

(Catalog of Federal Domestic Assistance Number 13.550; State Planning Commissions Program—Intrastate Planning.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-8191 Filed 3-24-78; 11:58 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Interstate Land Sales Registration Office

[Docket Nos. 78-14-IS, N-78-857; OILSR No. 0-3452-49-470]

ARROWHEAD a.k.a. LAKE VISTA

Notice of Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b), notice is hereby given that:

1. Arrowhead a.k.a. Lake Vista, John M. Pennington, Trustee, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated February 2, 1978, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR § 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Arrowhead a.k.a. Lake Vista located in Liver Oak County, Tex., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 21, 1978 in response to Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C. on May 1, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before April 7, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which slall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: February 28, 1978.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc. 7940 Filed 3-24-78; 8:45 am]

[4210-01]

[Docket Nos. 78-5-IS, N-78-854, OILSR No. 0-2453-49-179 and (A-B)]

BEAVER CREEK

Notice of Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b), notice is hereby given that:

1. Beaver Creek, Beaver Creek Developers, Inc. and Lester L. Tatum, General Partner, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448)(15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated December 28, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR § 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Beaver Creek, located in Burleson County, Tex., Contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 8, 1978, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on April 19, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before March 20, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: February 28, 1978.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.78-7937 Filed 3-24-78; 8:45 am]

[4210-01]

[Docket Nos. 77-181-IS, 78-856; OILSR No. 0-2613-12-28]

RANCHO McCREA

Notice of Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Rancho McCrea, Donald B. Todd and Associates and Donald B. Todd, General Partner, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated December 28, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120, based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Rancho McCrea subdivision located in Fremont County, Idaho, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 8, 1978, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on April 28, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before March 24, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: February 28, 1978.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc. 78-7939 Filed 3-24-78; 8:45 am]

[4210-01]

[Docket Nos. 78-17-IS, 78-853; OILSR No. 0-2565-26-44]

SUNNYLAKE RANCH

Notice of Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b), Notice is hereby given that:

1. Sunnylake Ranch, Norman J. Walker, President, and Sunnylake Ranch, Inc., its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated February 8, 1978, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Sunnylake Ranch, located in Alcona County, Mich., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 27, 1978, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on May 3, 1978 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before April 10, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed

to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the respondent forthwith pursuant to 24 CFR 1720.440.

Dated: March 7, 1978.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc. 78-7936 Filed 3-24-78; 8:45 am]

[4210-01]

[Docket Nos. 78-6-IS, N-78-855; OILSR No. O-2575-18-9 (A) and (B)]

TANGLEWOOD LAKE

Notice of Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b), notice is hereby given that:

1. Tanglewood Lake, Lake Estates, Inc. and William J. Justus, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated January 20, 1978, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Tanglewood Lake subdivision, located in Linn County, Kans., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 2, 1978, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on April 6, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before March 16, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: February 28, 1978.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc. 78-7938 Filed 3-24-78; 8:45 am]

[4210-01]

Office of the Secretary

[Docket No. N-77-506]

PRIVACY ACT OF 1974

Final Admendment to Routine Uses

AGENCY: Department of Housing and Urban Development.

ACTION: Final amendment.

SUMMARY: This notice amends the routine uses of HUD's Privacy Act system of records designated Accounting Records (HUD/DEPT-2). It also adds to the categories of individuals, of records and of record sources applicable to this system of records.

EFFECTIVE DATE: April 26, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, Room 3176, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5192.

SUPPLEMENTARY INFORMATION: The additions to the system of records are being made to delineate more accurately the types of records contained in this record system. The additions are an amplification rather than an alteration or expansion of the scope of this system. They were not previously included because of an oversight.

The additions to the Accounting Records system follow:

Categories of individuals covered by the system: Builders, developers, contractors, appraisers, individuals writing to the Department, employees on HUD/FHA projects, investors, subjects of audits, closing agents, and former mortgagors and purchasers of HUD-owned properties.

Categories of records in the system: Mortgagors, builders, and contractors financial statements, records, and audit reports, requests for termination of home mortgage insurance, deposit and receipt records, detailed accounting reports concerning diversified payments, disbursements, and canceled checks, repurchases of mortgages, adjustments from recoveries, manual adjustments, and defaults, acquired home property records, sales closing papers, statements of accounts, and tax records.

Routine uses of records maintained in the system including categories of users and purposes of such uses: Internal Revenue Service—for reporting of sales commissions, Department of Labor and taxing authorities—for audit, accounting and financial reference, and Mortgagees—for accounting and financial reference.

Record source categories: Other individuals, credit bureaus, and HUD personnel.

It should also be noted that "local housing authorities" is deleted from the categories of individuals identified by this system. The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 42 FR 54756 (October 7, 1977). Appendix A which lists the addresses of HUD's field offices was published at 42 FR 54777 (October 7, 1977).

A notice proposing the alteration of the existing system of records was printed in the FEDERAL REGISTER on September 29, 1977 at 42 FR 51669. No comments were received.

The Department has determined that an Environmental Impact Statement is not required with respect to this notice. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

Accordingly, HUD amends the routine uses of system HUD/DEPT-2 to read as follows:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof; Internal Revenue Service—for reporting of sales commissions; General Accounting Office, General Services Administration, Department of Labor, local housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgagee lenders—for accounting and financial reference purposes.

For the convenience of the public, the Department is printing below the system of records of its entirety including the modifications as cited above.

HUD/DEPT-2

System name:

Accounting Records.

System location:

Many Regional, Area, Service Offices and Valuation/Endorsement Stations, as well as the Headquarters, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system:

Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Programs; builders, developers, contractors, and appraisers; individuals writing to the Department; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

Categories of records in the system:

Lease and loan collection register; schedule of payments receivable and received; premiums due; claim files and fee billing statements; escrow and certificates of deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts; cancelled checks; mortgagors, builders and contractors financial statements, records and audit reports; requests for termination of home mortgage insurance; deposit and receipt records; detailed accounting reports concerning diversified payments, disbursements, and cancelled checks; repurchases of mortgages; adjustments from recoveries, manual adjustments, and defaults; acquired home property records; sales closing papers; statements of accounts; tax records.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof; Internal Revenue Service—for reporting of sales commissions; General Accounting Office, General Services Administration, Department of Labor, Local housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgagee lenders—for accounting and financial reference purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Desks; safes; locked file cabinets; central files; bookcases; ledger trays and binders; tables.

Retrievability:

By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

Safeguards:

Security checks; limited authorization and access; security guards.

Retention and disposal:

GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Record source categories:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-federal government agencies; HUD personnel.

AUTHORITY.— 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., March 20, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-8012 Filed 3-24-78; 8:45 am]

[4210-01]

[Docket No. N-78-858]

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of new system of records.

SUMMARY: The Department is giving interim notice of a new system of records subject to the Privacy Act. The new system is identified as the National Flood Insurance Application and Related Documents Files (HUD/FIA-2). The system description is published in its entirety below.

EFFECTIVE DATE: March 27, 1978.

COMMENTS DUE: Interested persons may submit written comments by April 26, 1978, which will be considered before adoption of the final notice.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The system of records results from processing applications, endorsements and claims under the National Flood Insurance Program.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on November 4, 1977.

The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 42 FR 54765 (October 7, 1977). Appendix A which lists the addresses of HUD's field offices was published at 42 FR 54777 (October 7, 1977).

It is fully certified that the economic impact of this proposed notice of system of records has been carefully

evaluated in accordance with OMB Circular A-107.

HUD/FIA-2

System name:

The National Flood Insurance Application and Related Documents Files.

System location:

Various offices of the Servicing Agent under contract to the Department.

Categories of individuals covered by the system:

Applicants for individual flood insurance and individuals insured.

Categories of records in the system:

Flood insurance policy issuance and administration records and claims adjustment records, including applications for emergency and regular flood insurance, Endorsements, Renewal Applications, Cancellation Notices, Policy Questionnaires, Notices of Loss, and Proofs of Loss.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses in prefatory statement. Other routine uses: For use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program.

Policies and practices for storing, retrieving, assessing, retaining and disposing of records in the system:

Storage:

In file folders and on magnetic tape/disc/drum.

Retrievability:

Name, policy number.

Safeguards:

Records kept in a secured area; automated systems have restricted access limited to authorized personnel.

Retention and Disposal:

Policy records are kept as long as insurance is desired and premiums paid and for an appropriate time thereafter and claim records are kept for the statutory time within which to file a claim.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedures:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedure:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410.

Record source categories:

Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., March 21, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-8011 Filed 3-24-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WILDERNESS PROGRAM

Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: This notice announces public meetings that will be held to explain draft Wilderness Policy and Review Procedure and to encourage the public to submit written comments.

DATES: See Supplementary Information.

ADDRESS: Comments should be mailed to: Director (370), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION, BY PHONE CALL: Division of Recreation, Mr. Robert Lund or Mr. Randy Botkin, 202-343-9353.

SUPPLEMENTARY INFORMATION: On March 8, 1978, the Department of the Interior, Bureau of Land Management, published a notice to the public of the availability of a draft Wilderness Policy and Review Procedure. The draft explains the procedure which the Bureau of Land Management proposes to use in reviewing for wilderness preservation potential the public lands under its administration. The draft is being made available to enable the public to make comments on the proposed Wilderness Policy and Review Procedure before they are implemented. The time for public comments expires on May 17, 1978.

In order to provide the general public and affected organizations and corporations an opportunity to receive information and ask questions on the draft Wilderness Policy and Review Procedure, public meetings will be held at the following times and locations:

Washington, D.C., April 5, 1978, beginning at 9:30 a.m., in the Main Auditorium at the Interior Building, 18th and C Streets NW. Contact: Mr. Robert Lund, Wilderness Program Leader, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-9353.

For detailed information about the following State meetings, please contact the public affairs officer listed for that State:

Juneau, Alaska, April 24, 1978. Contact: Mr. Carl A. Gidlund, Public Affairs Officer, 555 Cordova Street, Anchorage, Alaska 99501, telephone 907-277-1561.

Yuma, Ariz., April 18, 1978; Safford, Ariz., April 18, 1978; Kingman, Ariz., April 18, 1978; Phoenix, Ariz., April 19, 1978; Tucson, Ariz., April 20, 1978; St. George, Utah, April 20, 1978. Contact: Mr. Robert B. Whitaker, Public Affairs Officer, 2400 Valley Bank Center, Phoenix, Ariz. 85073, telephone 602-992-3831.

Sacramento, Calif., April 19, 1978. Contact: Mr. Jerry D. Harrell, Public Affairs Officer, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, Calif. 95825, telephone 916-484-4724.

Grand Junction, Colo., April 13, 1978; Denver, Colo., April 17, 1978. Contact: Mr. George C. Hinton, Public Affairs Officer, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colo. 80202, telephone 303-837-4481.

Boise, Idaho, April 14, 1978. Contact: Mr. Frederick T. Cook, Public Affairs Officer, Federal Building, Room 398, 550 West Fort Street, P.O. Box 042, Boise, Idaho 83724, telephone 208-384-1770.

Billings, Mont., April 12, 1978. Contact: Mr. Gordon W. Flint, Public Affairs Officer, Granite Tower, 222 North 32d Street, P.O. Box 30157, Billings, Mont. 59107, telephone 406-657-6461.

Las Vegas, Nev., April 18, 1978; Carson City, Nev., April 20, 1978; Ely, Nev., April 29, 1978; Battle Mountain, Nev., May 1, 1978; Tonopah, Nev., May 2, 1978. Contact: Ms. Janet M. Bedrosian, Public Affairs Offi-

cer, Federal Building, Room 3008, 300 Booth Street, Reno, Nev. 89509, telephone 702-784-5459.

Albuquerque, N. Mex., April 18, 1978; Las Cruces, N. Mex., April 19, 1978; Roswell, N. Mex., April 20, 1978. Contact: Mr. John Gumert, Public Affairs Officer, U.S. Post Office and Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, N. Mex. 87501, telephone 505-988-6316.

Portland, Oreg., April 14, 1978. Contact: Mr. Robert D. Hostetter, Public Affairs Officer, 729 Oregon Street NE., P.O. Box 2965, Portland, Oreg. 97208, telephone 503-234-3361, extension 4024.

Salt Lake City, Utah, April 11, 1978. Contact: Mr. Jack M. Reed, Public Affairs Officer, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, telephone 801-524-4227.

Casper, Wyo., April 18, 1978. Contact: Mr. Jim MacNair, Public Affairs Officer, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo. 82001, telephone 307-778-2220.

EASTERN STATES

Lansing, Mich., April 24, 1978; Madison, Wis., April 26, 1978; St. Paul, Minn., April 28, 1978. Contact: Mr. Thomas C. DeRocco, Public Affairs Officer, 7981 Eastern Avenue, Silver Spring, Md. 20910, telephone 301-427-7440.

Representatives of the Bureau of Land Management will present a slide series that explains the proposed Wilderness Policy and Review Procedure. There will be a general overall presentation and a detailed explanation of the process being suggested to inventory the public lands to identify wilderness study areas. The public will be given an opportunity to ask questions. Written and verbal comments will be taken, although the purpose of the meeting is to disseminate information on the proposed draft and request written comments be sent into the Washington Office. A verbatim transcript will not be made of each meeting; however, summaries will be made of questions and issues raised, as well as comments offered. The summaries developed at the meetings and the written comments received will be analyzed in conjunction with the development of the operational Wilderness Policy and Review Procedure.

Copies of the draft Wilderness Policy and Review Procedure can be obtained from any of the offices listed above.

If you are interested in the national wilderness system or are affected by the designation of wilderness areas, please be involved and offer your comments and ideas.

Dated: March 22, 1978.

FRANK GREGG,
Director.

[FR Doc. 78-7909 Filed 3-24-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action to Enjoin Discharge of Water Pollutants

INTERNATIONAL MINERALS AND CHEMICAL CORP., AND IMC CHEMICAL GROUP, INC.

In accordance with Department Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on March 6, 1978, a proposed consent decree in *United States of America* v. *International Minerals and Chemical Corp., and IMC Chemical Group, Inc.* was lodged with the United States District Court for the Western District of Louisiana. The proposed decree provides for new interim and final effluent limitations with which the defendants must comply at their plant in Sterlington, La. The limitations will be incorporated into a revised NPDES permit. The proposed decree sets forth a schedule for achieving compliance with the final effluent limitations by July 1, 1980. The proposed decree sets forth a schedule for achieving compliance with the final effluent limitations by July 1, 1980. The proposed decree also provides for a basic penalty of $1,000 per day until compliance with the final effluent limitations. However, if, on or before July 1, 1979, the plant can meet certain limitations stricter than the interim ones, the penalty is reduced to $500 per day.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Building, 500 Fannin, Third Floor, Box 33, Shreveport, La. 71161; at the Region VI office of the Environmental Protection Agency, Enforcement Division, 1201 Elm Street, Dallas, Tex. 75270; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Polution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *International Minerals and Chemical Corp., and and IMC Chemical Group, Inc.*, D. J. Ref. 90-5-1-1-532.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-7972 Filed 3-26-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

MARCH 21, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

West Tennessee Legal Services in Jackson, Tenn. to serve Madison, Henderson, Chester, Hardeman and Haywood counties. Northwest Florida Legal Services, Inc. in Pensacola, Fl. to serve Santa Rosa and Escambia counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta, Ga. 30308.

THOMAS EHRLICH,
President.

[FR Doc. 78-7994 Filed 3-24-78; 8:45 am]

[1410-03]

LIBRARY OF CONGRESS

Copyright Office

[Docket No. S77-6-D]

PERFORMANCE RIGHTS IN SOUND RECORDINGS

Addenda to Report

On Tuesday, March 21, 1978, the FEDERAL REGISTER published a notice that addenda to the January 3, 1978 Report of the Register of Copyrights were transmitted to Congress and are available for public inspection (43 FR 11773). The following is the Register's Statement referred to in the previous notice at 43 FR 11774, preceded by that Statement's letter of transmittal.

(17 U.S.C. 114.)

Dated: March 22, 1978.

BARBARA RINGER,
Register of Copyrights.

DANIEL J. BOORSTIN,
Librarian of Congress.

MARCH 22, 1978.

Dear MR. PRESIDENT:
Dear MR. SPEAKER:

On January 3, 1978, the Copyright Office submitted to Congress a Report on Performance Rights in Sound Recordings, pursuant to the mandate of section 114(d) of the 1976 Copyright Act, Pub. L. 94-553. At that time, I indicated the intention to submit four additional documents as addenda to the original Report. This is to advise you that these documents have been submitted. They include: (1) A Statement by the Register of Copyrights summarizing the position of the Copyright Office on the relevant issues, along with legislative recommendations; (2) an independently prepared historical analysis of labor union involvement in performance rights in sound recordings; (3) reply comments of the independent economic consultant who prepared the economic study included in the original Report of January 3, 1978, and submitted in response to comments on that study; and (4) a bibliography of works dealing with performance rights in sound recordings.

With the submission to Congress of the addenda described above, the Copyright Office believes it has fulfilled its responsibilities under section 114(d). The Copyright Office is prepared to furnish whatever further assistance the Congress deems necessary in this matter.

Sincerely yours,

DANIEL J. BOORSTIN,
Librarian of Congress.

Barbara Ringer,
Register of Copyrights.

ADDENDUM TO THE REPORT OF THE REGISTER OF COPYRIGHTS ON PERFORMANCE RIGHTS IN SOUND RECORDINGS

Statement of the Register of Copyrights containing a Summary of Conclusions and Specific Legislative Recommendations.

INTRODUCTION

The Congressional mandate to the Register of Copyrights contained in section 114(d) of the new copyright statute reads as follows:

"On January 3, 1978, the Register of Copyrights, after consulting with representatives of owners of copyrighted materials, representatives of the broadcasting, recording, motion picture, entertainment industries, and arts organizations, representatives of organized labor and performers of copyrighted materials, shall submit to the Congress a report setting forth recommendations as to whether this section should be amended to provide for performers and copyright owners of copyrighted material any performance rights in such material. The report should describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any."

On January 3, 1978, I submitted to Congress our basic documentary report, consisting of some 2,600 pages, including appendices. The basic report includes analyses of the constitutional and legal issues presented by proposals for performance rights in sound recordings, the legislative history of previous proposals to create these rights under Federal Copyright law, and testimony and written comments representing current views on the subject in this country. The basic report seeks to review and analyze foreign systems for the protection of performance rights in sound recordings, and the existing structure for international protection in this field, including the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations. The basic report also includes an "economic impact analysis" of the proposals for performance royalty legislation, prepared by an independent economic consultant under contract with the Copyright Office.

After reviewing all of the material in the basic report, together with additional supplementary material,[1] I have prepared this statement in an effort to summarize the conclusions I have drawn from our research and analysis and to present specific recommendations for legislation. With the presentation of this statement, the Copyright Office believes that it has discharged all of its responsibilities under section 114(d).

It was understandable that enactment of section 114(d) was greeted with raised eyebrows and cynical smiles. Some of those who favored performance rights in sound recordings viewed it as a temporizing move, aimed at ducking the issue and delaying Congress' obligation to come to grips with the problem. Others, opponents of the principle of royalties for performance of sound recordings, expressed derision at the idea of entrusting a full-scale study of the problem to an official who had, in testimony before both Houses of Congress, expressed a personal commitment to that principle. The Register's Report could either be looked on as a time-consuming nuisance that had to be gotten out of the way before Congress could be induced to look at the problem again, or as something that could be dismissed as worthless because the views of the official responsible for it were already fixed and her conclusions were predictable.

Neither the idea nor the drafting of section 114(d) originated with anyone in the Copyright Office. When approached with the proposed compromise that subsection (d) reflects, we accepted the responsibility and the short deadline imposed by the new subsection with two thoughts in mind:

First, we agreed with those who felt that any full-scale effort to tie enactment of performance royalty legislation directly to the bill for general revision of the copyright law would seriously impair the chances for enactment of omnibus revision. Keeping the subject of performance royalty alive but splitting it off for later Congressional consideration reduced the twin dangers of lack of time to complete work on the bill for general revision, and concerted opposition to the bill as a whole.

Second, we also agreed that, with a problem as important and hotly contested as this one, Congress should have a fuller record and more thorough research and analysis on which to base its consideration of proposed legislation. Although the deadline for the report (January 3, 1978) coincided with the date on which the Copyright Office was required to implement the whole new copyright statute, we felt that it would be possible for us to complete both jobs on time

As I viewed the mandate in section 114(d), the important thing was to provide Congress with a body of reliable information that would help it to legislate intelligently and effectively on the subject of performance rights in sound recordings. Regarded in this way, the basic documentary report, together with the other three addenda, are far more important than this statement of conclusions and recommendations.

In approaching our task under section 114, we set up a project under the leadership of Ms. Harriet Oler to address the entire problem without any preconceptions and as thoroughly, objectively, searchingly, and comprehensively as possible. Ms. Oler analyzed the problem, laid out the project, and directed its implementation. She and the other members of her team, notably Richard Katz and Charlotte Bostick, deserve the highest praise for the end product of their work. I believe that their basic documentary report, including the independently-prepared studies by Stephen Werner and Robert Gorman, will be of immediate value to Congress in evaluating legislative proposals on the subject and will also be a lasting contribution to scholarship and literature in the copyright field.

Let me state it as plainly as possible: none of the material in the basic documentary report or in the other addenda was prepared to reflect or support any preexisting viewpoint or position of the Register of Copyrights or the Copyright Office. The only directions that were given to anyone connected with the project were to be as objective and honest as humanly possible—to search out the relevant facts and law and follow them wherever they might lead. Aside from the general statements of the scope of their studies as stated in their contracts, the work done by Mr. Werner and Professor Gorman was entirely independent of any direction from the Copyright Office, and their reports were presented exactly as received.

As Register of Copyrights since 1973 I have taken a consistent and rather strong public position in favor of the principle of performance royalties for sound recordings. This was no secret to anyone when section 114(d) was added to the revision bill and, in enacting that provision, Congress could hardly have expected me to abandon beliefs and convictions based on many years of personal research and experience in the field. What it could expect were two separate things: first, as full and objective a study by the Copyright Office of the problem as possible; and, second, an honest and unbiased statement of my conclusions and recommendations, as Register of Copyrights, based on a fresh review of the Copyright Office study.

This statement is intended to fulfill the second of these two obligations. My hope is that it will be of some help to Congress in considering this difficult problem, but that no one attach undue weight to any of its conclusions or recommendations. In particular, I hope that it will be considered as entirely separate from the Copyright Office's basic documentary report, so that the attacks on my conclusions and recommendations will not undermine the usefulness of the body of information brought together in the basic report.

BASIC ISSUES AND CONCLUSIONS

The following is an effort to present, in outline form, the basic issues of public policy, constitutional law, economics, and Federal statutory law raised by proposals

[1] Three further addenda are being submitted to Congress concurrently with this statement: (1) a report, prepared by an independent legal consultant, of the history of labor union involvement with the issue of performance royalties over the past thirty years; (2) a supplementary report by the independent economic consultant; and (3) a bibliography on performance rights in sound recordings.

for performing rights in sound recordings, together with a bare statement of the conclusion I have reached on each of them, and a highly condensed discussion of the reasons behind each conclusion.

1. *The Fundamental Public Policy Issue*

Issue: Should performers, or record producers, or both, enjoy any rights under Federal law with respect to public performances of sound recordings to which the have contributed?

Conclusion: Yes.

Discussion: The Copyright Office supports the principle of copyright protection for the public performance of sound recordings. The lack of copyright protection for performers since the commercial development of phonograph records has had a drastic and destructive effect on both the performing and the recording arts. Professor Gorman's fascinating study shows that, in seeking to combat the vast technological unemployment resulting from the use of recorded rather than live performances, the labor union movement in the United States may in some ways have made the problem worse. It is too late to repair past wrongs, but this does not mean they should be allowed to continue. Congress should now do whatever it can to protect and encourage a vital artistic profession under the statute constitutionally intended for this purpose: the copyright law.

Broadcasters and other commercial users of recordings have performed them without permission or payment for generations. Users today look upon any requirement that they pay royalties as an unfair imposition in the nature of a "tax." However, any economic burden on the users of recordings for public performance is heavily outweighed, not only by the commerial benefits accruing directly from the use of copyrighted sound recordings, but also by the direct and indirect damage done to performers whenever recordings are used as a substitute for live performances. In all other areas the unauthorized use of a creative work is considered a copyright infringement if it results either in damage to the creator or in profits to the user. Sound recordings are creative works, and their unauthorized performance results in both damage and profits. To leave the creators of sound recordings without any protection or compensation for their widespread commercial use can no longer be justified.

2. *Constitutional Issues*

a. *Issue:* Are sound recordings "the writings of an author" within the meaning of the Constitution?

Conclusion: Yes.

Discussion: Arguments that sound recordings are not "writings" and that performers and record producers are not "authors" have become untenable. The courts have consistently upheld the constitutional eligibility of sound recordings for protection under the copyright law. Passage of the 1971 Sound Recording Amendment was a legislative declaration of this principle, which was reaffirmed in the Copyright Act of 1976.

b. *Issue:* Can sound recordings be "the writings of an author" for purposes of protection against unauthorized duplication (piracy or counterfeiting), but not for purposes of protection against unauthorized public performence?

Conclusion: No.

Discussion: Either a work is the "writing of an author" or it is not. If it is, the Constitution empowers Congress to grant it any protection that is considered justified. There is no basis, in logic or precedent, for suggesting that a work is a "writing" for some purposes and not for others.

c. *Issue:* Would Federal legislation to protect sound recordings against unauthorized public performance be unconstitutional: (i) if there has been no affirmative showing of a "need" on the part of the intended beneficiaries and hence no basis for asserting Congressional authority to "promote the progress of science and useful arts"; or (ii) if there has been an affirmative showing that compensation to the intended beneficiaries is "adequate" without protection of performing rights?

Conclusion: No.

Discussion: These are actually disguised economic arguments, not constitutional objections. Congressional authority to grant copyright protection has never been conditioned on any findings of need, or of the likelihood that productivity or creativity will increase. The established standard is that Congress has complete discretion to grant or withhold protection for the writings of authors, and that the courts will not look behind a Congressional enactment to determine whether or not it will actually provide incentives for creation and dissemination. It is perfectly appropriate to argue that a particular group of creators is adequately compensated through the exercise of certain rights under copyright law, and therefore Congress should not grant them additional rights. It is not appropriate to argue that a Federal statute granting these rights could be attacked on the constitutional ground that it did not "promote the progress of science and useful arts."

d. *Issue:* Would the establishment of performance rights interfere with the First Amendment rights of broadcasters and other users of sound recordings?

Conclusion: No.

Discussion: The courts have been generally unreceptive to arguments that the news media have a right to use copyrighted material, beyond the limits of fair use in particular cases, under theories of freedom of the press or freedom of speech. These arguments seem much weaker where the copyrighted material is being used for entertainment purposes, where the user is benefiting commercially from the use, or where the use is subject to compulsory licensing.

3. *Economic Issues*

a. *Issue:* Do the benefits accruing to performers and record producers from the "free airplay" of sound recordings represent adequate compensation in the form of increased record sales, increased attendance at live performances, and increased popularity of individual artists?

Conclusion: No, on balance and on consideration of all performers and record producers affected.

Discussion: This is the strongest argument put forward by broadcasters and other users. There is no question that broadcasting and jukebox performances give some recordings the kind of exposure that benefits their producers and individual performers through increased sales and popularity. The benefits are hit-or-miss and, if realized, are the result of acts that are outside the legal control of the creators of the works being exploited, that are of direct commercial advantage to the user, and that may damage other creators. The opportunity for benefit through increased sales, no matter how significant it may be temporarily for some "hit records," can hardly justify the outright denial of any performing rights to any sound recordings. That denial is inconsistent with the underlying philosophy of the copyright law: that of securing the benefits of creativity to the public by the encouragement of individual effort through private gain (*Mazer* v. *Stein* 347 U.S. 201 (1954)).

b. *Issue:* Would the imposition of performance royalties represent a financial burden on broadcasters so severe that stations would be forced to curtail or abandon certain kinds of programming (public service, classical, etc.) in favor of high-income producing programming in order to survive?

Conclusion: There is no hard economic evidence in the record to support arguments that a performance royalty would disrupt the broadcasting industry, adversely affect programming, and drive marginal stations out of business.

Discussion: This has been the single most difficult issue to assess accurately, because the arguments have consisted of polemics rather than facts. An independent economic analysis of potential financial effects on broadcasters was commissioned by the Copyright Office in an effort to provide an objective basis for evaluating the arguments and assertions on both sides of this issue. This study concludes on the basis of statistical analysis that the payment of royalties is unlikely to cause serious disruption within the broadcasting industry. There are arguments aplenty to the contrary, but there is no hard evidence to support them.

c. *Issue:* Would the imposition of a performance royalty be an unwarranted windfall for performers and record producers?

Conclusion: No.

Discussion: As for performers, the independent economic survey commissioned by the Copyright Office indicates that only a small proportion of performers participating in the production of recordings receive royalties from the sale of records and that, even if they do, royalties represent a very small proportion of their annual earnings. While the statistics collected with respect to record producers is less conclusive, the economic analysis concludes that the amount generated by the Danielson bill for record companies would be less than one-half of one percent of their estimated net sales.

4. *Legal Issues*

a. *Issue:* Assuming that some legal protection should be given to sound recordings against unauthorized public performance, should it be given under the Federal copyright statute?

Conclusion: Yes.

Discussion: Considerations of national uniformity, equal treatment, and practical effectiveness all point to the importance of Federal protection for sound recordings, and under the Constitution the copyright law provides the appropriate legal framework. Preemption of state law under the new copyright statute leaves sound recordings worse off than they were before 1978, since previously an argument could be made for common law performance rights in sound recordings.

b. *Issue:* What form should protection take?

Conclusion: The best approach appears to be a form of compulsory licensing, as procedurally simple as possible.

Discussion: No one is arguing for exclusive rights, and it would be unrealistic to do so. The Danielson bill represents a good starting point for the development of definitive legislation.

c. *Issue:* Who should be the beneficiaries of protection?

Conclusion: There are several possibilities; since performers and record producers both contribute copyrightable authorship to sound recordings, they should both benefit.

Discussion: Special considerations that must be taken into account include the fact that many performers on records are "employees for hire," the unequal bargaining positions in some cases, and the status of arrangers.

d. *Issue:* How should the rates be set?

Conclusion: Congress should establish an initial schedule, which the Copyright Royalty Tribunal would be mandated to reexamine at stated intervals.

Discussion: It would seem necessary to establish minimum statutory rates at the outset, rather than leaving the initial task to the Tribunal. Review of the statutory rates by the Copyright Royalty Tribunal should be mandatory after a period of time sufficient to permit the development of a functioning collection and distribution system.

LEGISLATIVE RECOMMENDATIONS

Section 114(d) asks the Register of Copyrights, among other things, to set forth "recommendations as to whether this section should be amended to provide for performers and copyright owners of copyrighted material by performance rights in such material," and to describe "specific legislative or other recommendations, if any."

Based on the conclusions outlined above, my general recommendation is that section 114 be amended to provide performance rights, subject to compulsory licensing, in copyrighted sound recordings, and that the benefits of this right be extended both to performers (including employees for hire) and to record producers as joint authors of sound recordings.

Specific legislative recommendations are embodied in the following draft bill, which is essentially a revision of the Danielson Bill (H.R. 6063, 95th Cong., 1st Sess. 1977).

DRAFT BILL

A Bill to amend the copyright law, title 17 of the United States Code, to create public performance rights with respect to sound recordings, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SECTION 1. This Act may be cited as "The Sound Recording Performance Rights Amendment of 1978."

SECTION 2. Section 101 of title 17 of the United States Code, as amended by Public Law 94-553, (90 Stat 2541) is hereby amended by deleting the definition of "perform" and inserting the following:

"To 'perform' a work means to recite, render, play, dance, or act it, either directly or by means of any device or process. In the case of a motion picture or other audiovisual work, to 'perform' the work means to show its images in any sequence or to make the sounds accompanying it audible. In the case of a sound recording, to 'perform' the work means to make audible the sounds of which it consists."

SECTION 3. Section 106 of title 17 of the United States Code, as amended by Public Law 94-553 (90 Stat. 2541) is hereby amended by deleting clause (4) and inserting the following:

"(4) in the case of literary, musical, dramatic, and choreographic works, pantomines, motion pictures and other audiovisual works, and sound recordings, to perform the copyrighted work publicly; and"

SECTION 4. Section 110 of title 17 of the United States Code, as amended by Public Law 94-553 (90 Stat. 2541) is hereby amended as follows:

(a) In clause (2) insert the words "or of a sound recording" between the words "performance of a nondramatic literary or musical work" and "or display of a work,"

(b) In clause (3), insert the works "or of a sound recording," between the words "of a religious nature," and the words "or display of a work,";

(c) In clause (4), insert the words "or of a sound recording," between the words "literary or musical work" and "otherwise than in a transmission";

(d) In clause (6), insert the words "or of a sound recording" between the words "nondramatic musical work" and "by a governmental body";

(e) In clause (7), insert the words "or of a sound recording" between the words "nondramatic musical work" and "by a vending establishment";

(f) In clause (8), insert the words "or of a sound recording embodying a performance of a nondramatic literary work," between the words "nondramatic literary work," and "by or in the course of a transmission"; and

(g) In clause (9), insert the words "or of a sound recording embodying a performance of a dramatic literary work that has been so published," between the words "date of the performance," and the words "by or in the course of a transmission".

SECTION 5. Section 111 of title 17 of the United States Code, as amended by Public Law 94-553 (90 Stat. 2541) is hereby amended by inserting, in the second sentence of subsection (d)(5)(A), between the words "provisions of the antitrust laws," and "for purposes of this clause" the words "and subject to the provisions of section 114(c),".

SECTION 6. Section 112 of title 17 of the United States code, as amended by Public Law 94-553 (90 Stat. 2541) is hereby amended as follows:

(a) In subsection (a), delete the words "or under the limitations on exclusive rights in sound recordings specified by section 114(a)," and insert in their place "or under a compulsory license obtained in accordance with the provisions of section 114(c),".

(b) In subsection (b), delete the reference to "section 114(a)" and insert "section 114(b)(5)".

SECTION 7. Section 114 of title 17 of the United States Code as amended by Public Law 94-553 (90 Stat. 2541), is hereby amended in its entirety to read as follows:

"*§ 114 Scope of exclusive rights in sound recordings*

(a) LIMITATIONS ON EXCLUSIVE RIGHTS.—In addition to the limitations on exclusive rights provided by sections 107 through 112 and sections 116 through 118, and in addition to the compulsory licensing provisions of subsection (c) and the exemptions of subsection (d) of this section, the exclusive rights of the owner of copyright in a sound recording under clauses (1) through (4) of section 106 are further limited as follows:

(1) The exclusive right under clause (1) of section 106 is limited to the right to duplicate all or any part of the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording;

(2) The exclusive right under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality;

(3) The exclusive right under clause (4) of section 106 is limited to the right to perform publicly the actual sounds fixed in the recording;

(4) The exclusive rights under clauses (1) through (4) of section 106 do not extend to the making, duplication, reproduction, distribution, or performance of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording; and

(5) The exclusive rights under clauses (1) through (4) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *provided,* That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

(b) RIGHTS IN SOUND RECORDING DISTINCT FROM RIGHTS IN UNDERLYING WORKS EMBODIED IN RECORDING.—The exclusive rights specified in clauses (1) through (4) of section 106 with respect to a copyrighted literary, musical or dramatic work, and such rights with respect to a sound recording in which such literary, musical, or dramatic work is embodied, are separate and independent rights under this title.

(c) COMPULSORY LICENSE FOR PUBLIC PERFORMANCE OF SOUND RECORDINGS.—(1) Subject to the limitations on exclusive rights provided by sections 107 through 112 and sections 116 through 118, and in addition to the other limitations on exclusive rights provided by this section, the exclusive right provided by clause (4) of section 106, to perform a sound recording publicly, is subject to compulsory licensing under the conditions specified by this subsection.

(2) When phonorecords of a sound recording have been distributed to the public in the United States or elsewhere under the authority of the copyright owner, any other person may, by complying with the provisions of this subsection, obtain a compulsory license to perform that sound recording publicly.

(3) Any person who wishes to obtain a compulsory license under this subsection shall fulfill the the following requirements:

(A) On or before ——, 19—, or at least thirty days before the public performance, if it occurs later, such person shall record in the Copyright Office a notice stating an intention to obtain a compulsory license under this subsection. Such notice shall be filed in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal, shall prescribe by regulation, and shall contain the name and address of the compulsory licensee and any other information that such regulations may require. Such regulations shall also prescribe requirements for bringing the information in the statement up to date at regular intervals.

(B) The compulsory licensee shall deposit with the Register of Copyrights, at annual intervals, a statement of account and a total royalty fee for all public performances during the period covered by the statement, based on the royalty provisions of clauses (7) or (8) of this subsection. After consulta-

tion with the Copyright Royalty Tribunal, the Register of Copyrights shall prescribe regulations prescribing the time limits and requirements for the statement of account and royalty payment.

(4) Failure to record the notice, file the statement, or deposit the royalty fee as required by clause (3) of this subsection renders the public performance of a sound recording actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(5) Royalties under this subsection shall be payable only for performances of copyrighted sound recordings fixed on or after February 15, 1972.

(6) The compulsory licensee shall have the option of computing the royalty fees payable under this subsection on either a prorated basis, as provided in clause (7) or on a blanket basis, as provided in clause (8), and the annual statement of account filed by the compulsory licensee shall state the basis used for computing the fee.

(7) If computed on a prorated basis, the annual royalty fees payable under this subsection shall be calculated in accordance with standard formulas that the Copyright Royalty Tribunal shall prescribe by regulation, taking into account such factors as the proportion of commercial time, if any, devoted to the use of copyrighted sound recordings by the compulsory licensee during the applicable period, the extent to which the compulsory licensee is also the owner of copyright in the sound recordings performed during said period, and, if considered relevant by the Tribunal, the actual number of performances of copyrighted sound recordings during said period. The Tribunal shall prescribe separate formulas in accordance with the following:

(A) For radio or television stations licensed by the Federal Communications Commission, the fee shall be a specified fraction of one percentum of the station's net receipts from advertising sponsors during the applicable period;

(B) For other transmitters of performances of copyrighted sound recordings, including background music services, the fee shall be a specified fraction of two percentum of the compulsory licensee's gross receipts from subscribers or others who pay to receive the transmission during the applicable period; and

(C) For other users not otherwise exempted, the fee shall be based on the number of days during the applicable period on which performances of copyrighted sound recordings took place, and shall not exceed $5 per day of use.

(8) If computed on a blanket basis, the annual royalty fees payable under this section shall be calculated in accordance with the following:

(A) For a radio broadcast station licensed by the Federal Communications Commission, the blanket royalty shall depend upon the total amount of the station's gross receipts from advertising sponsors during the applicable period:

(i) Receipts of at least $25,000 but less than $100,000: $250;

(ii) Receipts of at least $100,000 but less than $200,000: $750;

(iii) Receipts of $200,000 or more: one percentum of the station's net receipts from advertising sponsors during the applicable period;

(B) For a television broadcast station licensed by the Federal Communications Commission, the blanket royalty shall depend on the total amount of the station's gross receipts from advertising sponsors during the applicable period:

(i) Receipts of a least $1,000,000 but less than $4,000,000: $750;

(ii) Receipts of $4,000,000 or more: $1,500;

(C) For other transmitters of performances of copyrighted sound recordings, including background music services, the blanket royalty shall be two percentum of the compulsory licensee's gross receipts from subscribers or others who pay to receive the transmission during the applicable period;

(D) For other users not otherwise exempted, the blanket royalty shall be $25 per year for each location at which copyrighted sound recordings are performed.

(9) Public performances of copyrighted sound recordings by operators of coin-operated machines, as that term is defined by section 116, and by cable systems, as that term is defined by section 111, are subject to compulsory licensing under those respective sections, and not under this section. However, in distributing royalties to the owners of copyright in sound recordings under sections 116 and 111, the Copyright Royalty Tribunal shall be governed by clause (14) of this subsection. Nothing in this section excuses an operator of a coin-operated machine or a cable system from full liability for copyright infringement under this title for the performance of a copyrighted sound recording in case of failure to comply with the requirements of sections 116 or 111, resepctively.

(10) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing U.S. securities for later distribution with interest by the Copyright Royalty Tribunal, as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on an annual basis, a compilation of all statements of account covering the relevant annual period provided by subsection (c)(3) of this section.

(11) During the month of September in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 810 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (B) of subsection (c)(3) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws, for purposes of this subsection any claimants may, subject to the provisions of clause (14) of this subsection, agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(12) After the first day of July of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (B) of this subsection (c)(3) during the twelve-month period of which claims have been filed under clause (11) of this section. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners and performers entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(13) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(14) The royalties available for distribution by the Copyright Royalty Tribunal shall be divided between the owners of copyright as defined in subsection (e), and the performers, as also defined in said subsection, but in no case shall the proportionate share of the performers be less than fifty percent of the amount to be distributed. With respect to the various performers who contributed to the sounds fixed in a particular sound recording, the performers' share of royalties payable with respect to that sound recording shall be divided among them on a per capita basis, without regard to the nature, value, or length of their respective contributions. With respect to a particular sound recording, neither a performer nor a copyright owner shall be entitled to transfer his right to the royalties provided in this subsection to the copyright owner or the performer, respectively, and no such purported transfer shall be given effect by the Copyright Royalty Tribunal.

(d) EXEMPTIONS FROM LIABILITY AND COMPULSORY LICENSING.—In addition to users exempted from liability by other sections of this title or by other provisions of this section, any person who publicly performs a copyrighted sound recording and who would otherwise be subject to liability for such performance or to the compulsory licensing requirements of this section, is exempted from liability for infringement and from the compulsory licensing requirements of this section, during the applicable annual period, if during such period—

(1) In the case of a radio broadcast station licensed by the Federal Communications Commission, its gross receipts from advertising sponsors were less than $25,000; or

(2) In the case of a television broadcast station licensed by the Federal Communications Commission, its gross receipts from advertising sponsors were less than $1,000,000; or

(3) In the case of other transmitters of performances of copyrighted sound recordings, its gross receipts from subscribers or others who pay to receive transmissions during the applicable period were less than $10,000.

(e) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

(1) "Commercial time" is any transmission program, the time for which is paid for by a commercial sponsor, or any transmission program that is interrupted by a spot commercial announcement at intervals of less than fourteen and one-half minutes.

(2) "Performers" are instrumental musicians, singers, conductors, actors, narrators,

and others whose performance of a literary, musical, or dramatic work is embodied in a sound recording. For purposes of this section, a person coming within this definition is regarded as a "performer" with respect to a particular sound recording whether or not that person's contributions to the sound recording was a "work made for hire" within the meaning of section 101.

(3) A "copyright owner" is the author of a sound recording, or a person or legal entity that has acquired all of the rights initially owned by one or more of the authors of the sound recording.

(4) "Net receipts from advertising sponsors" constitute gross receipts from advertising sponsors less any commissions paid by a radio or television station to advertising agencies.

(f) SOUNDS ACCOMPANYING A MOTION PICTURE OR OTHER AUDIOVISUAL WORK.—The sounds accompanying a motion picture or other audiovisual work are considered an integral part of the work that they accompany, and any person who uses the sounds accompanying a motion picture or other audiovisual work in violation of any of the exclusive rights of the owner of copyright in such work under clauses (1) through (4) of section 106 is an infringer of that owner's copyright. However, if such owner authorizes the public distribution of material objects that reproduce such sounds but do not include any accompanying motion picture or other audiovisual work, a compulsory licensee under section 116 or 111 or under subsection (c) of this section shall be freed from further liability for the public performance of the sounds by means of such material objects.

SECTION 8. Section 116 of title 17 of the United States Code, as amended by Public Law 94-553 (90 Stat. 2541) is hereby amended as follows:

(a) In the title of the section insert the words "and sound recordings" after the words "nondramatic musical works" and before the colon;

(b) In subsection (a), between the words "nondramatic musical work embodied in a phonorecord," and the words "the exclusive right" insert the words "or of a sound recording of a performance of a nondramatic musical work,";

(c) In the second sentence of clause (2) of subsection (c), between the words "provisions of the antitrust laws," and "for purposes of this subsection," insert the words "and subject to the provisions of section 114(c),";

(d) In clause (4) of subsection (c), redesignate subclauses (A), (B), and (C) as "(B)", "(C)", and "(D)", respectively, and insert a new subclause (A) as follows:

"(A) to performers and owners of copyright in sound recordings, or their authorized agents, one-eighth of the total distributable royalties under this section, to be distributed as provided by section 114(c)(14);" and in the newly-designated subclause (B), between the words "every copyright owner" and the words "not affiliated with" insert the words "of a nondramatic musical work".

SECTION 9. In section 801 of title 17 of the United States Code, as amended by Public Law 94-553 (90 Stat. 2541), amend subsection (b)(1) as follows: in the first sentence, between the words "as provided in sections" and "115 and 116, and" insert "114,"; and in the second sentence, between the words "applicable under sections" and "115 and 116 shall be calculated" insert "114,". Amend subsection (b)(3) by inserting, between the words "Copyrights under sections 111" and "116, and to determine" the following: ", 114,".

SECTION 10. In subsection (a) of section 804 of title 17 of the United States Code, as amended by Public Law 94-553 (90 Stat. 2541), insert "114," following the words "as provided in sections" and "115 and 116, and with", and at the end of clause (2) of subsection (a) add a new subclause (D), as follows:

"(D) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 114, such petition may be filed in 1988 and in each subsequent tenth calendar year."

In subsection (d) of section 804, insert ", 114," between the words "circumstances under sections 111" and "or 116, the Chairman".

SECTION 11. Amend section 809 of title 17 of the United States Code, as amended by Public Law 94-553 (90 Stat. 2541), by inserting ", 114," between the words "royalty fees under sections 111" and "or 116, the Tribunal".

SECTION 12. This Act becomes effective six months after its enactment.

COMMENTS ON DRAFT BILL

Among the many detailed questions raised by the Danielson Bill, the draft bill set out above, or both, the following deserve special consideration:

1. *Definitions.* The draft bill revises the definition of "perform" in section 101 to embrace sound recordings. Another possible amendment in that section might expand the definition of "fixed" to include cases where a work is being fixed simultaneously with its performance. An important question involves the rights of performers who are employees for hire; the draft bill does not change the definition of "work made for hire" in section 101, but defines "performers" in section 114 in a way that is intended to insure their right to share in performance royalties despite their employee status.

2. *Limitations on Performance Rights Generally.* The draft bill amends seven of the nine clauses of section 110 to add sound recordings to the material whose performances are exempted. Should clause (1) of section 110 also be amended to exclude from the exemption performances of sound recordings given by means of a phonorecord known to be unlawfully made? Should clauses (1) and (2) be amended to exclude from the exemptions sound recordings made expressly for instructional purposes?

3. *Exemption for Public Broadcasting.* The draft bill retains the exemptions for public broadcasting now in section 114.

4. *Act that Triggers the Compulsory License.* The draft bill follows the Danielson Bill in making compulsory licenses available when phonorecords of a sound recording have been publicly distributed anywhere. It does not limit the place of distribution to the United States (as in section 115), and it does not adopt proposals to allow a period of free use (30 days was suggested) before any liability would accrue.

5. *Administration.* The draft bill follows the pattern established in sections 111 and 116 of the Copyright Act of 1976, providing for filing in the Copyright Office and payment of fees there, but entrusting to the Copyright Royalty Tribunal the tasks of distributing royalties and adjusting rates.

6. *Criminal Penalties.* The Danielson Bill subjected a user who had not complied with the compulsory licensing requirements to full liability for copyright infringement, but insulated such a user from criminal liability even if the infringement was willful. The draft bill restores the possibility of criminal penalties in this situation.

7. *Royalty Rates.* The draft bill recasts the rate provisions of the Danielson Bill in an effort to make them a little simpler, but leaves the basic system and amounts largely untouched. The compulsory licensing rates for jukebox and cable performances are not increased in sections 116 and 111, so the beneficiaries of those sections would be required to share their pot with performers and record producers.

8. *Substitution of Negotiated Licenses.* The Danielson Bill allowed for the substitution of negotiated licenses and urged the formation of collecting agencies to make this possible. This raised a number of practical problems and inconsistencies, and the existence of the Copyright Royalty Tribunal adds a new factor. The draft bill is based on the premise that all licensing in this area will be compulsory.

9. *Distribution of Royalties.* The Danielson Bill provided for a mandatory fifty-fifty split between performers and "copyright owners". It did not come to grips with the status of performers who are employees for hire. The draft bill gives at least fifty percent of the royalties to performers on a per capita basis, regardless of their employment status, but allows performers to negotiate for more (not less) than a fifty percent share.

10. *Exemptions.* Both the Danielson Bill and the draft provide outright exemptions to smaller radio and television stations and music services.

11. *Definition of Performers.* Neither draft mentions arrangers, although in practice they are often assimilated to performers. Arguments can be made that employed arrangers should be entitled to share in the royalties under section 114.

12. *Soundtracks.* The draft bill seeks to clarify a difficult question: are "soundtrack recordings" subject to compulsory licensing when they are publicly performed?

OTHER RECOMMENDATIONS

Finally, mention must be made of the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations (the Rome Convention, adopted in 1961. This nobly-motivated and ambitious international instrument was years ahead of its time, but it has retained its vitality and has much to offer to the United States and its creative communities. This country could adhere to the Rome Convention if the proposed legislation were enacted, and the possibility should be thoroughly explored at the appropriate time.

[FR Doc. 78-7878 Filed 3-24-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-8]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent to Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR

1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Co., Tokyo, Japan, a limited, exclusive patent license in Japan for the three NASA-owned inventions covered by the Japanese counterparts of: (1) U.S. Application Serial No. 779,883 for "Oxygen Post-Treatment of Plastic Surfaces," filed by NASA on March 21, 1977; (2) U.S. Application Serial No. 797,217 for "Abrasion Resistant Coatings for Plastic Surfaces," filed by NASA on May 16, 1977; and (3) U.S. Application Serial No. 820,499 for "Production of Crystals From Molten Solutions," filed by NASA on July 29, 1977. Copies of the above U.S. Patent Applications can be purchased from the National Technical Information Services, Springfield, Va., 22161, at a cost of $3.75 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP-4, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: March 21, 1978.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 78-7912 Filed 3-24-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Artists-in-Schools Advisory Panel to the National Council on the Arts will take place April 10, 1978, from 9:30 a.m.-5 p.m.; April 11, 1978, from 9:30 a.m.-5 p.m.; and April 12, 1978, from 9:30 a.m.-12:30 p.m. in Room 1422 of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on April 10, 1978, from 9:30 a.m.-5 p.m. and April 11, 1978, from 9:30 a.m.-5 p.m. The topics of discussion will be policy and guidelines.

The remaining sessions of this meeting on April 12, 1978, from 9:30 a.m.-12:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

MARCH 20, 1978.

[FR Doc. 78-7935 Filed 3-24-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR PHYSICS SUBCOMMITTEE ON JOB-RELATED ISSUES

Open Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics—Subcommittee on Job-Related Issues.
Date and Time: April 14 and 15, 1978; 9 a.m. to 5 p.m. each day.
Place: Room 114, East Bridge, California Institute of Technology, Pasadena, Calif. 91125.
Type of Meeting: Open.
Contact Person: Dr. Laura P. Bautz, Executive Secretary, Advisory Committee for Physics, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4175.
Purpose of Subcommittee: To analyze issues related to employment opportunities in Physics, with special reference to those for young physicists.
Agenda: Continued discussion of issues and options regarding job opportunities for young physicists.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 22, 1978.

[FR Doc. 78-7965 Filed 3-24-78; 8:45 am]

[7555-01]

COLLEGE PROGRAMS SUBCOMMITTEE OF THE ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: College Programs Subcommittee of the Advisory Committee for Science Education.
Date and Time: April 23, 1978—10 a.m.
Place: Room 608, University of Colorado, 100 14th Street, Denver, Colo.
Type of Meeting: Open.
Contact Person: Dr. Terence Porter, Deputy Division Director, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7786.
Purpose of Subcommittee: To assist the Assistant Director for Science Education regarding the Office of Audit and Oversight's requirement to assess system performance.
Agenda: Development of a work plan for the subcommittee in addressing a review and assessment of the purpose, composition, functions and accomplishments of certain science education programs.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 22, 1978.

[FR Doc. 78-7964 Filed 3-24-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-410-A]

NIAGARA MOHAWK POWER CO., ET AL.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Niagara Mohawk Power Corp., pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on June 15, 1972, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Central Hudson Gas & Electric Co., Long Island Lighting Co., New York State Electric & Gas Corp., and Rochester Gas & Electric Corp. as owners of the Nine Mile Point Nuclear Plant, Unit 2.

The information was filed by Niagara Mohawk Power Corp., Central Hudson Gas & Electric Co., Long Island Lighting Co., New York State Electric & Gas Corp., and Rochester Gas & Electric Corp. in connection with their application for a construction permit and operating license for the Nine Mile Point Nuclear Plant, Unit 2, a boiling water reactor. The site for this plant is located on the shore of Lake Ontario in Oswego County, N.Y.

The original antitrust portion of the application was submitted on June 15,

1972, and notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report: Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on July 14, 1972 (37 FR 13816). The Notice of Hearing was also published in the FEDERAL REGISTER on September 23, 1972 (37 FR 20089).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, N.Y. 13126.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Hudson Gas & Electric Co., Long Island Lighting Co., New York State Electric & Gas Corp., and Rochester Gas & Electric Corp. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before May 26, 1978.

Dated at Bethesda, Md., this 13th day of March 1978.

For the Nuclear Regulatory Commission.

CARL STAHLE,
Acting Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-7730 Filed 3-24-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Addition to Agenda

The agenda for the April 5, 1978 meeting of the ACRS Subcommittee on Regulatory Activities, announced in the FEDERAL REGISTER on March 21, has been changed to add the following item:

A. (3) Regulatory Guide 1.68, Revision 2, "Initial Test Programs for Water Cooled Nuclear Power Plants."

All other matters pertaining to this meeting remain the same as stated in above cited announcement.

Dated: March 22, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-8043 Filed 3-24-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

NON-RUBBER FOOTWEAR

The following letter, concerning administration of the orderly marketing agreement with the Republic of China on non-rubber footwear, has been sent to the Commissioner of Customs:

Hon. ROBERT CHASEN,
Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C. 20229.

MARCH 20, 1978.

DEAR MR. COMMISSIONER: The Government of the Republic of China has requested that the restraint levels applicable during the first restraint year to categories T1, T2, and T3 of the United States-Republic of China orderly marketing agreement on non-rubber footwear (corresponding to category nos. 923.90, 923.91, and 923.92 of the Tariff Schedules of the United States) be increased by six percent. For each category, the quantity by which the restraint level is increased for the first restraint year is to be subtracted from the restraint level for the second restraint year. Such a request, and U.S. compliance with it, is in accordance with the terms of the orderly marketing agreement.

Accordingly, pursuant to operative paragraph (6) of Proclamation No. 4510, of June 22, 1977, you are hereby requested to increase the first-year restraint level applicable to non-rubber footwear imports entering under TSUS item nos. 923.90, 923.91, and 923.92 by six percent, and to decrease the restraint levels applicable to each of those TSUS categories in the second restraint year by the same amount by which the category was increased for the first restraint year.

This letter will be published in the FEDERAL REGISTER and the action will become effective on the first working day after publication.

Sincerely,

ROBERT S. STRAUSS.

RICHARD R. RIVERS,
General Counsel.

[FR Doc. 78-7901 Filed 3-24-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Request for Comments on Annual Review

In accordance with Section 7(b) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), the Office of the Special Representative for Trade Negotiations (STR) will conduct an annual review of the Advisory Committee for Trade Negotiations (the Committee). By order of the President, a zero-based review of every executive advisory committee is to be undertaken, with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have a truly balanced membership; and (3) which conduct their business as openly as possible, consistent with the law and their mandate. Based on this review, a determination is to be made whether to continue, merge, terminate, or revise responsibilities of each advisory committee. The STR is required to submit a report on the results of this review to the Office of Management and Budget by April 1, 1978.

The Trade Act of 1974 required establishment of an Advisory Committee for Trade Negotiations to provide overall advice on certain trade agreements referred to in the Trade Act (19 U.S.C. 2255.) The Committee is composed of 45 individuals drawn from government, labor, industry, agriculture, small business, service industries, retailers, consumer interests, and the general public. Members of the Committee are appointed by the President for a period of 2 years and may be reappointed for additional periods.

The Committee is chaired by the Special Representative for Trade Negotiations and meets at his request. The STR is authorized to make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

The Committee provides advice to the President, the Congress, and to U.S. negotiators on the Multilateral Trade Negotiations presently underway in Geneva. Public access to meetings of the Committee has been restricted pursuant to 5 U.S.C. 552b(c)(1), since disclosure of information discussed in such meetings could seriously harm U.S. foreign policy interests.

The Committee shall terminate as soon as practical after January 3, 1980, upon submission of reports required under Section 135(e)(2) of the Trade Act of 1974.

Comments, or requests for further information, should be directed to Phyllis O. Bonanno, Executive Director for the Advisory Committee for Trade Negotiations, 1800 G Street, NW., Washington, D.C. 20506 no later than March 31, 1978.

PHYLLIS O. BONANNO,
Executive Secretary, Advisory Committee for Trade Negotiations.

[FR Doc. 78-7914 Filed 3-24-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20457]

PUBLIC SERVICE CO. OF OKLAHOMA AND ASH CREEK MINING CO.

Request To Complete Transfer of Assets From Operating Company to Subsidiary Mining Company and To Extend Subsidiary Mining Company's Authorization To Conduct Coal Exploration and Development Activities

MARCH 20, 1978.

Notice is hereby given that Public Service Co. of Oklahoma ("PSO"), an electric utility subsidiary of Central and South West Corp. ("CSW"), a registered holding company and Ash Creek Mining Co. ("Ash Creek"), a subsidiary mining company of PSO, have filed post-effective amendments to their application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10 and 12 of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as further amended by said post-effective amendments, which is summarized below, for a complete statement of the proposed transactions.

PSO states that by order dated November 30, 1976 (HCAR No. 19777), it was authorized to organize and acquire all the authorized common stock of a new coal mining subsidiary, Ash Creek, to which it would transfer its interests in a coal mining prospect in Wyoming and Montana. Ash Creek was to be incorporated in Oklahoma with an authorized capital of 400,000 shares of $10 par value common stock and the interests were to be transferred at cost for shares of such common stock at their par value. If the basis for transfer exceeded $4,000,000, it was proposed that the excess be financed by short-term borrowing by Ash Creek from PSO, with the aggregate principal amount of short-term borrowings by Ash Creek from PSO not to exceed $12,500,000. It is stated that PSO transferred to Ash Creek properties having a cost basis of $3,839,040 in return for 383,904 shares of common stock, par value $10 per share, of Ash Creek and that additional properties with a cost basis at December 31, 1977 of approximately $3,711,500 remain in PSO ownership in Wyoming and Montana.

PSO and Ash Creek now seek an extension of the authorization previously granted them by Commission order in HCAR No. 19777 (November 30, 1976) to enable them to complete the transfer of the properties from PSO to Ash Creek and to enable Ash Creek to continue its authorized coal exploration and development activities.

To finance these activities, PSO seeks authorization to make short-term loans to Ash Creek in the form of open account advances or notes with a maturity date of no later than December 31, 1978, in the aggregate amount of $8,500,000. Of that amount approximately $3,711,500 will be utilized to effect the completion of the transfer of the properties from PSO to Ash Creek and of the remainder Ash Creek has budgeted $4,500,000 to be expended from January 1, 1978 through December 31, 1978, on its coal exploration and development activities including construction of a coal outloading facility. Ash Creek's existing authorization, which originally terminated on December 31, 1977, has twice been extended by Commission order, each time for a 45 day period (HCAR Nos. 20329 and 20414) with the second extension period due to expire on March 31, 1978.

Ash Creek states that through 1977 it will have spent approximately $6,500,000 for mine development, while PSO will have spent approximately $160,000 for coal exploration and $3,551,000 for property acquisition on the coal properties in Wyoming and Montana which Ash Creek will acquire.

Ash Creek states that its 1978 mine development activities are anticipated to center in the area of PSO Mine No. 1, located north of Sheridan, Wyo. Ash Creek plans the construction of a railroad outloading facility and some initial shipments of coal during the calendar year 1978. It is currently expected that coal produced during 1978 will not be required by PSO and therefore will be sold to persons not affiliated with Ash Creek, PSO or their affiliates, and the revenues realized from such sales will offset the cost of coal purchased under a firm coal contract with Kerr-McGee Corp. for the PSO Northeastern generating station. Ash Creek states that it also intends to attempt to acquire federal coal basis in the areas under the adjacent to the States Ranch in Wyoming and Montana, on which PSO owns surface rights and which PSO nominated for federal coal leasing in 1976. The coal thereby acquired is intended for future use in PSO's Northeastern station.

In addition to the activities described hereinabove, Ash Creek states that it will continue to dispose of interests not deemed attractive or appropriate to PSO's needs, to arrange for necessary treatment or processing of coal mined and to make incidental sales to others than PSO of products or by-products where no use can feasibly and currently be made of them by PSO, and to engage in farm-outs, farm-ins or other customary transactions.

The price at which Ash Creek coal is sold to PSO will not exceed the cost thereof to the seller. For this purpose, cost will include reasonable compensation for necessary capital, which will be determined from PSO's overall cost of capital by applying to each investment in Ash Creek made by PSO, whether debt or equity, a composite rate of return computed by applying to PSO's capital structure (excluding short-term debt) as of the last day of the calendar quarter next preceding the date of such investment, an interest rate on long-term debt (excluding tax-exempt borrowings) equal to the effective interest cost of PSO's last debt issue preceding the investment, a preferred dividend rate equal to the effective dividend rate of PSO's last preferred stock issue preceding the investment and a return on common equity not to exceed the rate of return on common equity allowed to PSO by the Federal Energy Regulatory Commission or its successor (except as subject to refund) in that Commission's then most recent decision in a wholesale rate case of general applicability, the rate so applied to be modified prospectively from time to time upon the allowance of any different such rate of return.

In the event that, at the time an investment were made, PSO had not issued long-term debt or preferred stock, whichever is applicable, within the preceding 12 months, then upon the subsequent issuance of such debt or preferred stock, as the case may be, the interest or dividend cost thereof would be substituted, from and after the date of such issuance, for the interest or dividend cost previously applied.

Upon the retirement of an issue of long-term debt or preferred stock, the cost of which was used as a component in calculating the rate of return on an investment, the cost of the long-term debt or preferred stock, whichever is applicable, issued next preceding the date of such retirement, will be substituted therefore on a prospective basis. If however, PSO had not issued long-term debt or preferred stock, whichever is applicable, within the preceding 12 months, then the procedure outlined above for such eventualities would be utilized.

If Ash Creek receives financing from a nonaffiliate, the financing so received shall be allocated to the debt component of the capital structure applicable. To the extent that such allocation, by increasing Ash Creek's imputed long-term debt, causes Ash Creek's capital structure to vary from that otherwise applicable, subsequent investments by PSO will be allocated in such a manner as to eliminate such variation, by treating them first as common equity and then as preferred stock equity until such components

equal in percentage the respective percentages previously applicable.

The return on investment by PSO and cost of money from other sources shall be capitalized and included in determining the cost at which any goods are sold by Ash Creek to PSO, by amortizing such costs over production in accordance with generally accepted accounting practice and subject to any further orders of this Commission entered after review of Ash Creek's practices in the matter.

PSO and Ash Creek further state that they are hereby withdrawing two prior post-effective amendments, Nos. 3 and 4, previously filed in this matter.

It is stated that the fees and expenses to be incurred in connection with the proposed transactions are estimated at $800. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposed transactions.

Notice is further given that any interested person may, not later than April 13, 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 application-declaration, as further amended by said post-effective amendments, 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 addresses, 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 amended by said post-effective amendments, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-7968 Filed 3-24-78; 8:45 am]

[8010-01]

[Release No. 20455]

GEORGIA POWER CO., AND PIEDMONT-FORREST CORP.

Proposed Transactions Related to Newly-Organized Property Company

MARCH 20, 1978.

Notice is hereby given that Georgia Power Co. ("Georgia"), a wholly-owned electric utility subsidiary of The Southern Co., a registered holding company, and Piedmont-Forrest Corp. ("Property Company"), a new Georgia business corporation formed at the direction of Georgia, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9(a), 10, 12(b), and 12(d) of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Georgia proposes to acquire on or about April 21, 1978, the 10 shares of presently outstanding common stock of Property Company for $500.00 and to purchase from Property Company from time to time thereafter an additional 99,990 shares of common stock for $499,500. Georgia will utilize Property Company as a wholly-owned subsidiary to engage and act for Georgia in the acquisition, ownership, maintenance, and disposition of property in connection with and incidental to the utility operations of Georgia. These transactions would principally be of a nature where eliminating the complexities created by the lien of the mortgage indenture securing Georgia's first mortgage bonds ("Indenture") attaching to the property involved would be advantageous to Georgia and facilitate their implementation.

It is stated that once Property Company becomes a subsidiary of Georgia and until no later than December 31, 1978, Georgia proposes to advance up to $62.5 million to Property Company as and if necessary to permit Property Company to acquire the land for and cause to be constructed Phase I of a new office building complex for Georgia to be located in downtown Atlanta, Ga. Georgia asserts that its main office building, located at 270 Peachtree Street in Atlanta, Ga., contains insufficient space and facilities to meet Georgia's needs for its administrative headquarters. During the last several years, Georgia has had to scatter its general administrative staff into five different buildings in the downtown Atlanta area. In order to ameliorate this situation and to provide an administrative office facility which will meet Georgia's needs into the future, Georgia contemplates the construction of an office building complex in downtown Atlanta on one of several sites now under consideration. Phase I of the office-building complex is a 24-story office building containing approximately 750,000 square feet which has been designed for Georgia by a nonaffiliated Atlanta architectural firm. The building and its accompanying deck (the "new office building") have been designed as models of energy conservation and will make major use of solar energy. The entire new office building will be dedicated to use by Georgia, although Georgia may permit retail lessees to lease portions of the ground floor which are not otherwise being utilized by Georgia.

In order to avoid the inconvenience and expense of obtaining releases from the Indenture to transfer the property in a sale and lease back transaction and to otherwise facilitate the land acquisition program, Georgia proposes to use Property Company to acquire real property at the site for the new office building, to commence construction thereon, and to take whatever other steps as are necessary to work toward its successful and timely completion. At any time during the land acquisition of construction phase, Georgia may determine to transfer the new office building to a developer or other outside owner as part of a financing plan; but Georgia's long-term financing plans with respect to the new building remain open at this time, and Georgia wishes to maintain maximum flexibility.

Initially, Georgia will fund the land acquisition and construction of the new office building through periodic advances to Property Company. These advances will be made on an unsecured basis, will bear interest at a rate equal to Georgia's incremental cost of capital so employed, will be payable on demand, and may be evidenced from time to time by promissory notes. Based on present budget projections and subject to escalation due to cost increases, Georgia projects that, if the new office building is completed in mid-1981 as is projected, the cost of constructing and furnishing the new office building, exclusive of land acquisition costs, will not exceed approximately $44,000,000, while land acquisition costs, dependent upon the site finally selected, will not exceed $18.5 million. Thus, based on these projections and assuming that Georgia funded through advances to the Property Company the entire cost for completing the new office building (which would not be the case if an outside developer were to take over the project prior to completion), Georgia's unpaid advances to the Property Company could aggregate $62.5 million in principal amount through calendar year 1981. These advances will be repaid from the proceeds of the permanent financing when completed.

Upon acquiring the common stock of Property Company, Georgia intends promptly to sell to Property Company at cost (presently estimated at $2.2 million) all architectural drawings, designs, plans, and contracts, if any, presently held by Georgia relative to the new office building, and Property Company will proceed to acquire the desired real estate and to enter into contracts for the construction and furnishing of the new office building.

In connection with the downtown office-building project and other projects, Property Company will utilize management, accounting and other personnel services provided by Georgia and will compensate Georgia for the cost of providing such services. Property Company will occupy no separate office space or utilize any separate equipment or facilities, but again will reimburse Georgia for Georgia's overhead expenses allocable to Property Company projects. All transactions and the provision of all services, goods, property, and funding between Georgia and Property Company shall be at cost in compliance with Rules 90 and 91 promulgated under the Act. In allocating expenses to the Property Company, Georgia will follow the same accounting practices as it utilizes for allocating costs to work performed on its own projects.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. The filing states that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 13, 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 application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the 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 beome 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 Copmmission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-7969 Filed 3-24-78; 8:45 am]

[8010-01]

[Release No. 20456]

NORTHEAST UTILITIES

Proposed Amendment of Declaration of Trust and Order Authorizing Solicitation of Proxies

MARCH 20, 1978.

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding compnay, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12(e) thereof and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Northeast proposes to amend its Declaration of Trust changing the date of the Annual Meeting of the Shareholders. The Declaration of Trust now provides that the Annual Meeting of the Shareholders shall be held in the months of March or April. The proposed amendment will change the month in which such Annual Meeting may be held to the months of April, May, or June. It is stated that the proposed amendment will permit management to continue enclosing proxy statements with the mailing of the Annual Report and to maintain traditional mailing cost savings resulting from this practice, while extending the period for return of proxies. The Proposed amendment must be approved by the affirmative vote of at least two-thirds of the outstanding common shares, Northeast's sole class of capital stock.

Northeast also intends to establish, through its subsidiary Northeast Utilities Service Co. (NUSCO), an employee stock ownership plan and trust ("TRAESOP"), to be funded, in whole or in part, with authorized but unissued common shares of the company. The purpose of such plan is to provide eligible employees with ownership of Northeast's Common shares through additional investment tax credits allowed to Northeast and affiliated companies pursuant to the Internal Revenue Code of 1954, as amended. Northeast may fund the TRAESOP by virtue of cash contributions or by the issuance of its authorized but unissued common shares. However, as long as the market price of the company's common shares reamins below the per share book value of those shares, the TRAESOP may not be funded through the issuance of authorized but unissued common shares but must be funded entirely through the contribution of cash and the purchase by the trustee of the TRAESOP of common shares of the company on the open market. It is stated that a such time as Norteast is able to fund the TRAESOP through the issuance of authorized but unissued shares, the company will file an additional declaration pursuant to the Act describing the issuance of such shares. Northeast states that the issuance by the company of its common shares to the TRAESOP will be subject to preemptive rights unless the TRAESOP is approved by holders of a majority of the issued and outstanding common shares.

In connection with its Annual Meeting to be held on April 25, 1978, Northeast proposes to solicit proxies seeking the affirmative vote of shareholders with respect to the above-described amendment to the Declaration of Trust and the creation of the TRAESOP through the use of solicitation material.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. Northeast has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than April 17, 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 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 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.

It appearing to the Commission that Northeast's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62 and that jurisdication should be reserved with respect to the expenses thereof:

It is ordered, That the declaration regarding the proposed solicitation of proxies be, and hereby is, permitted to become effective forthwith pursuant to Rule 62, and that jurisdiction be, and it hereby is, reserved with respect to the expenses thereof.

For the Commission, by the Division of corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-7970 Filed 3-24-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1451]

MISSOURI

Declaration of Disaster Loan Area

The area located on the east side of the 6300 block of Brookside Plaza, in Kansas City, Jackson County, Mo., constitutes a disaster area because of damage resulting from a fire which occurred on January 29, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on May 18, 1978, and for economic injury until the close of business on December 17, 1978, at:

Small Business Administration, District Office, 12 Grand Building, 5th Floor, 1150 Grand Avenue, Kansas City, Mo. 64106.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 17, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7932 Filed 3-24-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1450]

NEW YORK

Declaration of Disaster Loan Area

The area of the West Side of New York Avenue between Main Street and High Street in the town of Huntington, Suffolk County, Long Island, N.Y., constitutes a disaster area because of damage resulting from a fire which occurred on January 28, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on May 18, 1978, and for economic injury until the close of business on December 17, 1978, at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, N.Y. 10007.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 19, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7933 Filed 3-24-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Notice of Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the tenth meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on April 11 and 12, 1978.

The purpose of this meeting is to finalize recommendations for priorities for collaborative research support planning studies, discuss procedures for implementation of collaborative programs, and discuss means for JRC participation in contract research planning and programming.

The meeting will begin at 9 a.m. and will adjourn at 4:30 p.m. on April 11, and will reconvene at 9 a.m. and adjourn at noon on April 12. The meeting on both days will be held in the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. Room designation will be posted in the lobby of the Quality Inn. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Director, Office of Title XII/University Relations, Development Support Bureau, is designated as AID Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: March 20, 1978.

FLETCHER E. RIGGS,
Acting AID Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 78-7979 Filed 3-24-78; 8:45 am]

[4710-02]

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Notice of Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the ninth meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on April 10 and 11, 1978.

The purpose of this meeting is to receive a progress report on baseline studies of research, education, and extension; to review the status of Title XII projects in Asia, Africa, Latin America, and the Near East; to review AID plans for preparation of Country Development Strategy Statements; and to consider other business brought before the Committee.

The meeting on April 10, 1978, will convene in Regional Work Groups (RWGs): Africa RWG at 9:30 a.m. in Room 3524, New State Department Building; Asia RWG at 10 a.m. in Room 206, Rosslyn Plaza Building, 1601 North Kent Street, Rosslyn, Va.; Latin America RWG at 9:30 a.m. in Room 1410, New State Department Building; and Near East RWG at 9:30 a.m. in Room 6484, New State Department Building. The meeting on April 11, 1978, will convene from 9 a.m. to 5 p.m. at the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. Room designation will be posted in the lobby of the Quality Inn. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Fletcher E. Riggs, Deputy Director, Office of Title XII/University Relations, Development Support Bureau, is designated AID Advisory Committee Representative at the meeting. It is suggested that those desiring further

information write to him in care of the agency for International Development, state Department, Washington, D.C. 20523, or telephone him at 703-235-9001.

Dated: March 20, 1978.

FLETCHER E. RIGGS,
Acting AID Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 78-7980 Filed 3-24-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-043]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held at the U.S. Coast Guard Academy, New London, Conn., on Monday, Tuesday, and Wednesday, April 10-12, 1978. The meeting on Monday will begin at 1:30 p.m. and remain in session until 3:15 p.m. The meeting on Tuesday will begin at 9 a.m. and remain in session until 4 p.m. On Wednesday, the meeting will begin at 9 a.m. and adjourn at 6:15 p.m.

The agenda for this meeting is as follows: (a) Faculty, (b) curricula, (c) cadets, (d) physical facilities and equipment, (e) academic division support personnel, (f) summer program, (g) admissions and recruiting.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the status of the curriculum and faculty of the Academy and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from:

Capt. Roderick M. White, USCG, Dean of Academics/Executive Secretary of Academy Advisory Committee, U.S. Coast Guard Academy, New London, Conn. 06320, phone 203-443-8463.

Any member of the public may present a written statement to the Committee at any time.

C. E. LARKIN, USCG,
Rear Admiral, Chief, Office of Personnel.

[FR Doc. 78-7991 Filed 3-24-78; 8:45 am]

[4910-06]

Federal Railroad Administration

GRANTING OF WAIVERS

As required by 45 U.S.C. 431(c), notice is hereby given that the five petitioners identified below have been granted temporary waivers of compliance with certain safety requirements imposed by the Federal Railroad Administration (FRA). These requirements are contained in the FRA regulations which establish Freight Car Safety Standards (49 CFR Part 215).

The temporary waivers of compliance granted to these five petitioners involve a single provision of the regulation (49 CFR 215.25) which basically requires that all railroad freight cars be given their initial periodic inspection before December 31, 1978. The temporary waivers that were granted to these petitioners will permit them to have an additional year to complete the initial periodic inspection of their freight cars. The grant of this temporary waiver of compliance is conditional and requires that all cars used to transport placarded hazardous materials be given their initial periodic inspection before December 31, 1978.

Prior to taking action to grant the waivers of compliance in these proceedings, the FRA provided a public notice concerning each proceeding and sought the views and comments of all interested parties. The public notice was published in the FEDERAL REGISTER (42 FR 49869) and contained a description of the facts involved in each request.

In reaching a decision to grant these waivers of compliance with the regulation, FRA found that good cause to grant the relief had been established and that such a waiver was in the public interest. Furthermore, FRA determined that granting such waivers, subject to specific conditions, was consistent with its goal of improving railroad safety.

The waivers were granted to the following petitioners:

1. ACF Industries, in the proceeding identified as FRA Waiver Petition Docket No. RSFC-76-6.

2. General American Transportation Co., in the proceeding identified as FRA Waiver Petition Docket No. RSFC-76-7.

3. North American Car Co., in the proceeding identified as FRA Waiver Petition Docket No. RSFC-76-8.

4. Pullman Leasing Co., in the proceeding identified as FRA Waiver Petition Docket No. RSFC-76-9.

5. Union Tank Car Co., in the proceeding identified as FRA Waiver Petition Docket No. RSFC-76-10.

Persons interested in obtaining detailed or technical information concerning these petitions should write to the Federal Railroad Administration. All communications concerning these petitions should identify the appropriate docket number and should be submitted to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on March 10, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-8003 Filed 3-24-78; 8:45 am]

[BS-Ap-No. 1363]

UNION PACIFIC RAILROAD COMPANY

Notice of Hearing

The Union Pacific Railroad Co. has petitioned the Federal Railroad Administration (FRA) for approval of a proposed modification of the Hobart Interlocking at Los Angeles, California. The proposed modification would permit removal of a certain interlocking derail at this installation.

The Railroad Safety Board of the Federal Railroad Administration has voted to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on April 11, 1978. The public hearing will be held in Room 3, E26 of the Federal Aviation Administration Offices, located at 15,000 Aviation Boulevard in Hawthorne, Calif.

The hearing will be an informal one and will be conducted in accordance with the provisions of § 211.25 of the FRA Rules of Practice (49 CFR Part 211). A representative designated by the Board will conduct this hearing.

The hearing will not be an adversary proceeding, and consequently, there will be no cross-examination of persons making statements. The Board's representative will make an opening statement outlining the scope of the hearing and will provide interested parties with an opportunity to make statements or rebuttal statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

This notice is issued under the authority of section 25 of the Interstate Commerce Act, 49 U.S.C. 26; and § 1.49(g).

Issued in Washington, D.C. on March 21, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-8002 Filed 3-24-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS

Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted February 1978. the modes of transportation involved are identified by a number in the "Nature of Exemption thereof" portion of the table below as follows: 1—Motor vehicle, 2—rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS		
3293-X	DOT-E 3293	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.150	To ship a certain flammable solid in DOT specification 6A, 6B, 6C, or 17C steel drums. (Mode 1.)
3367-X	DOT-E 3367	....do	49 CFR 173.316, 173.315(a)	To ship a certain flammable gas in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME Code. (Mode 1.)
3737-X	DOT-E 3737	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101	To ship certain military explosives having improper markings. (Modes 1 and 2.)
4239-X	DOT-E 4239	Fenwal Inc., Ashland, Mass	49 CFR 173.304(a)(2), 175.3	To manufacture, mark and sell steel inside containers, made in compliance with DOT specification 4D except for marking, for shipment of nonflammable gases. (Modes 1, 2, and 4.)
4404-X	DOT-E 4404	SunOlin Chemical Co., Claymont, Del	49 CFR 172.101, 173.272(a)(5)	To ship a certain flammable gas in a non-DOT specification, foam insulated cargo tank. (Mode 1.)
5820-X	DOT-E 5820	I.C.I United States, Inc., Wilmington, Del.	49 CFR 173.315	To ship certain nonflammable compressed gases in non-DOT specification portable tanks. (Modes 1, 2, and 3.)
5867-X	DOT-E 5867	Stauffer Chemical Co., Westport, Conn	49 CFR 172.101, 173.273(a)(5)	To ship a certain corrosive liquid in an insulated DOT specification MC-312 cargo tank. (Mode 1.)
6523-X	DOT-E 6523	FMC Corp., Philadelphia, Pa	49 CFR 173.154	To ship certain oxidizers in non-DOT tight sift-proof hopper car, non-DOT tight sift-proof covered hopper type motor vehicle, DOT specification 44B multiwall paper bag, DOT specification 44C multiwall paper bag, or DOT specification 44P all plastic bag. (Modes 1, and 2.)
6589-X	DOT-E 6589	Robertshaw Controls Co., Anaheim, Calif.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification stainless steel cylinders for the shipment of nonflammable compressed gases. (Modes 1, 2, and 4.)
6686-X	DOT-E 6686	Airco Welding Products, Union, N.J	49 CFR 173.304, 178.65	To ship a certain flammable gas in nonrefillable steel cylinders made in compliance with DOT specification 39 with certain exceptions. (Modes 1 and 2.)
6688-X	DOT-E 6688	Norris Industries, Los Angeles, Calif	49 CFR 173.302(a)(1)	To manufacture, mark and sell non-DOT specification seamless cylinders for the shipment of compressed gases. (Modes 1 and 2.)
6720-X	DOT-E 6720	Sea-Land Service, Inc., Elizabeth, N.J	46 CFR 90.05-35, 98.35-3; 49 CFR pt. 173.	To ship certain hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, and 3.)
6768-X	DOT-E 6768	PPG Industries, Barberton, Ohio	49 CFR 173.315(a)(1), 172.101	To ship a flammable gas in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME Code. (Mode 1.)
6774-X	DOT-E 6774	Hydraulic Research Textron, Pacoima, Calif.	49 CFR 173.302(a)(2), 175.3	To ship helium in a non-DOT specification cylinder complying with DOT specification 3HT with certain exceptions. (Modes 1 and 4.)
6800-X	DOT-E 6800	Plasti-Drum Corp., Lockport, Ill	49 CFR pt. 173, 178.19	To manufacture, mark and sell non-DOT specification reusable molded polyethylene containers for the shipment of certain oxidizers, corrosive liquids, class B poisons, flammable liquids, and a corrosive solid. (Modes 1, 2, and 3.)
6927-P	DOT-E 6927	Great Lakes Chemical Corp., West Lafayette, Ind.	49 CFR 173.353, 173.353a	To become a party to exemption 6927. (See application No. 6927-X). (Modes 1 and 3.)
6964-X	DOT-E 6964	Union Carbide Corp., Bound Brook, N.J	49 CFR 173.365(a)	To ship a poisonous solid, class B in a non-DOT specification plastic bag. (Modes 1 and 3.)
7052-X	DOT-E 7052	Power Conversion, Inc., Mount Vernon, N.Y.	49 CFR 173.206(e)(1), 175.3	To ship lithium batteries subject to certain qualifications and specialized packaging. (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	GTE Sylvania, Inc., Seneca Falls, N.Y.; National Semiconductor Corp., Santa Clara, Calif.	49 CFR 173.206(e)(1), 175.3	To become a party to exemption 7052. (See application No. 7052-X). (Modes 1, 2, 3, and 4.)
7060-X	DOT-E 7060	Baltimore Airways, Inc., Clarksville, Md.; Federal Express Corp., Memphis, Tenn.	49 CFR 175.75(a)(3), 175.700(a)	To transport radioactive materials in excess of 50 transport indices in cargo-only aircraft under certain conditions. (Mode 4.)
7228-X	DOT-E 7228	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 176.165(d)	To load packages of blasting caps aboard cargo vessel by use of a loading chute. (Mode 3.)

RENEWALS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7477-X	DOT-E 7477	Systron Donner Corp., Berkeley, Calif	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To ship certain nonflammable compressed gases in a non-DOT specification seamless aluminum cylinder. (Modes 1, 2, 3, and 4.)
7480-X	DOT-E 7480	Air Products & Chemicals, Inc., Allentown, Pa.	49 CFR 173.154	To ship an oxidizing material in DOT specification MC-307 and MC-311 insulated cargo tanks, or DOT specification 103ALW and 111A60ALW insulated tank cars. (Modes 1 and 2.)
7641-X	DOT-E 7641	American President Lines (APL), Seattle, Wash.	49 CFR 176.905(c)	To transport motor vehicles with battery cables connected aboard cargo vessels. (Mode 3.)
7650-X	DOT-E 7650	I.C.I. United States, Wilmington, Del	49 CFR 173.315	To ship certain nonflammable compressed gases in a non-DOT specification steel portable tank. (Modes 1 and 3.)
7801-P	DOT-E 7801	Star-Kist Foods, Inc., Terminal Island, Calif.	49 CFR 173.995	To become a party to exemption 7801. (See application No. 7801-X). (Mode 3.)
7882-X	DOT-E 7882	Dow Chemical Co., Midland, Mich	46 CFR 90.05-35, 98.35-3; 49 CFR 173.119.	To ship certain flammable and combustible liquids in non-DOT specification portable tanks. (Mode 3.)

NEW EXEMPTIONS

7526-N	DOT-E 7526	Lithium Corp., of America, Bessemer City, N.C.; Schering AG, Berlin, West Germany.	49 CFR 173.134	To ship pyrophoric liquid in non-DOT specification portable tanks. (Modes 1 and 3.)
7590-N	DOT-E 7590	National Motor Freight Traffic Association, Inc., Washington, D.C.	49 CFR 177.841(e)	To transport packages of class B poisons in a specially designed reusable overpack loaded in the same vehicle with foodstuffs, or feeds, etc. (Mode 1.)
7603-N	DOT-E 7603	Air Products & Chemicals, Inc., Allentown, Pa.	49 CFR 172.101, 173.315, 176.76(b).	To ship certain flammable nonflammable gases in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME Code. (Mode 3.)
7803-N	DOT-E 7803	Plastican, Inc., Leominster, Mass	49 CFR pt. 173, subpt. F; 49 CFR pt. 173, subpt. D; 178.19.	To manufacture, mark and sell non-DOT specification removable head molded polyethylene containers for the shipment of corrosive liquids and flammable liquids. (Modes 1, 2, and 3.)
7831-N	DOT-E 7831	Transcontinental Fertilizer Co., Philadelphia, Pa.	49 CFR 173.182(b)(6)	To ship an oxidizer in non-DOT specification woven polypropylene bags. (Modes 1, 2, and 3.)
7835-N	DOT-E 7835	Air Products & Chemicals, Inc., Allentown, Pa.	49 CFR 177.848, 107 app. B(1)	To transport poisonous gases on the same motor vehicle as flammable gases and oxidizers. (Mode 1.)
7840-N	DOT-E 7840	Douglas Aircraft Co., Long Beach, Calif	49 CFR 173.87, 175.3	To ship a nonflammable compressed gas and a class C explosive in a DOT specification 3AA2100 steel cylinder. (Modes 1, 2, 3, 4, and 5.)
7846-N	DOT-E 7846	Union Carbide Corp., Tarrytown, N.Y	49 CFR 173.314(c)	To ship certain nonflammable gases in skid mounted DOT 107A cylinders. (Mode 1.)
7851-N	DOT-E 7851	Ethyl Corp., Baton Rouge, La	49 CFR 173.34(e)	To make one-time shipment of pyrophoric liquid in DOT 4BA240 cylinders with passed due retest dates. (Mode 1.)
7891-N	DOT-E 7891	United Parcel Service, Greenwich, Conn.	49 CFR 172.400, 172.402 (a)(2), (a)(3), (a)(4), 172.504(a), 173.25(a), 173.153(a)(1), 173.345, 173.364.	To except special small quantity class B poison packages from labeling requirements, and shipment of certain flammable solids from placarding requirements. (Mode 1.)
7894-N	DOT-E 7894	Weyerhaeuser Co., Plymouth Meeting, Pa.	49 CFR 173.186	To ship wet waste paper in wire bound bales. (Modes 1 and 2.)
7925-N	DOT-E 7925	A/S Cheminova, Lemvig, Denmark	49 CFR 173.245	To ship certain corrosive liquids in non-DOT specification intermodal portable tanks. (Modes 1, 2, and 3.)

EMERGENCY EXEMPTION—*Application received and granted*

EE7922-N	DOT-E 7922	Allied Chemical Corp., Mount Clemens, Mich.	49 CFR 173.302(a)(1), 178.65	To ship certain nonflammable compressed gases in a non-DOT nonrefillable steel pressure vessel (inflator assembly). (Mode 1.)
EE7930-N	DOT-E 7930	Jefferson Bottling Co., Warwick, R.I	49 CFR 173.119 (a)(8), (b)(1), 175.3.	To ship a flammable liquid in non-DOT specification glass bottle/fiberboard box/plywood box packagings. (Modes 1 and 4.)
EE7932-N	DOT-E 7932	NL McCullough/NL Industries, Inc., Houston, Tex.	49 CFR 173.110(b)	To ship a class C explosive, charged oil well jet perforating guns, by cargo vessel. (Mode 3.)

DENIALS

5662-X.—Request by Dow Chemical Co., Midland, Mich.—To ship bromine chloride in A DOT specification 51 portable tank, denied February 17, 1978.

7010-X.—Request by Dow Chemical Co., Midland, Mich.—To ship bromine chloride in a single compartment lead-lined portable tank manufactured in accordance with DOT Specification MC-312, February 22, 1978.

7594-X.—Request by Solchem Inc., New York, N.Y.—To ship liquid methyl bromide in portable tanks by rail, denied February 9, 1978.

7626-X.—Request by General Steamship Corporation, Ltd., San Francisco, Calif.—To ship certain materials classed as ORM-C in freight containers, denied February 24, 1978 as being unnecessary.

7778-X.—Appeal by Distilled Spirits Council of the United States, Inc., Washington, D.C.—To extend DOT-E 7778 to new production of distilled spirits packaged in barrels after July 1, 1977, denied February 27, 1978.

7825-N.—Request by Process Engineering, Inc., Plaistow, N.H.—To authorize the manufacture, marking, and sale of a certain design cargo tank for carriage of liquid carbon monoxide, denied February 13, 1978.

7866-N.—Request by the Lea Manufacturing Co., Waterbury, Conn.—To ship limited quantities of Class B poisons in packagings which do not bear a poison label, denied February 28, 1978.

7899-N.—Request by Dow Chemical Co., Midland, Mich.—To ship hydrogen in a non-DOT specification sphere aboard passenger-carrying aircraft, denied February 7, 1978.

7903-N.—Request by Oxy Metal Industries Corp., Warren, Mich.—To authorize use of shipping papers which show the hazard class followed by the proper shipping name, denied February 15, 1978.

7905-N.—Request by Applied Equipment Co., Van Nuys, Calif.—To ship nitrogen in a non-DOT specification cylinder made in compliance with DOT 39 specification with certain exceptions, denied February 15, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc. 78-7855 Filed 3-24-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. EX76-4; Notice 3]

DAIHATSU MOTOR CO. LTD.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Daihatsu Motor Co. Ltd. of Asaka, Japan, has petitioned for a renewal of its exemption from Motor Vehicle Safety Standard No. 122, *Motorcycle Braking Systems.* The basis of the petition is that it will facilitate the development and field evaluation of a low-emission electric vehicle. Daihatsu's previous exemption was granted on August 23, 1976 (41 FR 35554) and expires on July 1, 1978.

The vehicle for which exemption is sought is the Daihatsu Trike, Model B20, an electric tricycle which has been developed for short distance on-road use. The B20's parking brake system will not hold it for 5 minutes on a 30 percent grade in the reverse direction as required by Standard No. 122. The company argues that this nonconformance does not degrade the overall safety of the vehicle as it has the ability to stop within 15 feet from its top speed of 17.5 mph. Its maximum climbing ability is only 10.5 percent which renders it unlikely ever to be parked on a grade that exceeds it. Its parking brake system, however, holds it in a reverse direction on a 20-percent grade, but the vehicle begins to slide at any grade exceeding 20 percent. Petitioner argues that the exemption would allow evaluation of "one step of electric motor vehicle evolution". It will not export more than 2,500 units of exempted B20's to the United States in any 12-month period for which an exemption is granted. At the time Daihatsu applied for a renewal it had sold only 24 units under its exemption. It believes that an extension is necessary to allow a more thorough field evaluation of a low-emission motor vehicle.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition for exemption of Daihatsu Motor Co. Ltd. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comment closing date: April 26, 1978.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on March 21, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-7960 Filed 3-24-78; 8:45 am]

[4910-59]

[Docket No. IP77-15; Notice 1]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

General Motors Corp. of Warren, Michigan ("GM" herein) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, Tire Selection and Rims for Passenger Cars, on the basis that it is inconsequential as it relates to motor vehicle safety.

Approximately 164 1977 model Pontiac Firebirds equipped with bucket seats may carry tire inflation placards (required by Standard No. 110) with an incorrect seating capacity and vehicle capacity weight. The placards indicate that the rear seating capacity is three persons when the correct capacity is two, that the occupant capacity is five when actually it is four, and that the total passenger capacity is 950 pounds when it is 800 pounds. Recommended tire sizes are given as "GR 78 x 15, GR 70 x 15" while the corrected placard reads: "F78 x 14, F70 x 14, FR 78 x 15, GR 70 x 15." Finally, the incorrect placard also carries ratings for "bench seat vehicles" a configuration in which the Firebird is unavailable.

GM argues that the incorrect seating capacity noncompliance is inconsequential because the physical limitations of the vehicle preclude the addition of a third passenger in the rear compartment. Further, even if the vehicle were loaded with an additional 150 pounds, its tire load limits would not be exceeded. Even if the GR 78 x 15 tire is used, and a third passenger is carried in the rear, "the maximum load on each rear tire would be 1238 pounds which is 142 pounds less than the maximum specified load rating" [1380 pounds at 24 psi]. NHTSA notes that if the FR 78 x 15 tire is used, as indicated by the correct placard, the maximum load on each rear tire would be 42 pounds less than the maximum specified load [1280 pounds at 24 psi].

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corp. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: May 11, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on March 21, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-7961 Filed 3-24-78; 8:45 am]

[4810-35]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 13]

FARMERS HOME MUTUAL INSURANCE COMPANY

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Farmers Home Mutual Insurance Company, Minneapolis, Minnesota, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective this date.

The company was last listed as an acceptable surety on Federal bonds at 42 FR 34071 July 1, 1977.

With respect to any bonds currently in force with Farmers Home Mutual Insurance Company, bond-approving officers of the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Dated: March 20, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-7956 Filed 3-24-78; 8:45 am]

[4810-40]

Office of the Secretary

TREASURY NOTES OF MAY 15, 1983, SERIES C-1983

Public Debt Series—No. 8-78

MARCH 22, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated Treasury Notes of May 15, 1983, Series C-1983 (CUSIP No. 912827 HQ 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated April 5, 1978, and will bear interest from that date, payable on a semiannual basis on November 15, 1978, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature May 15, 1983, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, March 28, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, March 27, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent

to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, April 5, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Monday, April 3, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, March 31, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-7958 Filed 3-22-78; 12:09 pm]

[4810-22]

CARBON STEEL PLATE FROM JAPAN

Amended Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Amended determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that the antidumping determination that carbon steel plate from Japan is being sold at less than fair value, which was published in the FEDERAL REGISTER on January 13, 1978 (43 FR 2032), is being amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. This case was referred to the U.S. International Trade Commission at the time of publication of the original determination for a detrermination by the Commission concerning possible injury to an industry in the United States. This determination is being amended on the basis of new information which has been developed, and is being republished in its entirety.

EFFECTIVE DATE: March 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary S. Clapp or Mr. Stephen Nyschot, Operations Officers, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 8, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Oregon Steel Mills, division of Gilmore Steel Corp., indicating a possibility that carbon steel plate from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Anti-

dumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of March 30, 1977 (42 FR 16883), indicating that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of, an industry in the United States. A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of October 6, 1977 (42 FR 54489). A "Notice of Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER of January 13, 1978 (43 FR 2032).

For purposes of this notice, the term "carbon steel plate" means hot-rolled carbon steel plate, 0.1875 (3/16) inches or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad, and not cut, pressed or stamped to non-rectangular shape.

AMENDED FINAL DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs Service investigation and for the reasons noted below, carbon steel plate from Japan, is being or is likely to be sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS AMENDED DETERMINATION IS BASED

The amended reasons and bases for the above determination are as follows:

(a) *Scope of the Investigation.* It appears that during the period of investigation covering October 1, 1976 to March 31, 1977, over 70 percent of the imports of the subject merchandise from Japan were manufactured by Nippon Steel Corp. (Nippon Steel), Nippon Kokan K.K. (NKK), Sumitomo Metal Industries, Ltd. (Sumitomo), Kawasaki Steel Corp. (Kawasaki), and Kobe Steel, Ltd. (Kobe). Therefore, the investigation was limited to these five manufacturers.

(b) *Basis of Comparison.* For the purpose of this determination, the proper basis of comparison is between purchase price and home market price of such or similar merchandise on all sales by Nippon Steel, NKK, and Kobe, and on most sales by Sumitomo and Kawasaki. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used for most sales since those export sales were made to unrelated Japanese trading companies. On the remaining sales by Sumitomo and Kawasaki, the proper basis of comparison is between exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), and home market price, since those sales in the United States are made by importers who are related to those manufacturers. Home market price, as defined in section 153.2, Customs regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities at not less than the cost of production to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), home market pricing information was obtained for the period October 1, 1976, through March 31, 1977. Since the question of sales prices below cost was raised, cost information was requested with respect particularly to the period April 1, 1976, through March 31, 1977.

(c) *Purchase Price.* For the purpose of this final determination of sales at less than fair value, purchase price has been calculated on the basis of the f.o.b. or f.a.s. price to the unrelated trading company for export to the United States. A deduction has been made for inland transportation costs included in the price.

(d) *Exporter's Sales Price.* For the purpose of this final determination of sales at less than fair value, exporter's sales price has been calculated on the basis of the price to the first unrelated purchaser in the United States. Deductions have been made for ocean freight and insurance, brokerage charges, import duties, and for expenses incurred in selling the merchandise in the United States.

(e) *Home Market Price.* For the purpose of this determination of sales at less than fair value, the home market price has been calculated on the basis of the delivered, net, packed price. Adjustments have been made for interest costs, freight, reimbursements to customers for defective merchandise, and packing cost differentials, as appropriate, in accordance with section 153.10, Customs Regulations (19 CFR 153.10). Adjustments for interest costs relate to extended payment terms granted to customers in the home market.

Additional adjustments were claimed by counsel for differences in circumstances of sale in accordance with section 153.10, Customs Regulations (19 CFR 153.10), for warehousing costs for inventory purposes, salesmen's salaries and office expenses, higher computer costs involved in following orders in the home market, bad debts, and technical services. These expenses do not bear a direct relationship to the sales under consideration and no adjustment has been allowed for these expenses.

Where exporter's sales price was used as the basis of comparison, selling expenses incurred in the home market were deducted from the home market price, up to the amount incurred in the United States, in accordance with section 153.10, Customs Regulations (19 CFR 153.10).

Counsel for petitioner has claimed that sales of this merchandise for home consumption or to third countries have been made in substantial quantities over an extended period of time at prices which are less than the cost of production within the meaning of section 205(b) of the Act and which do not permit recovery of all costs within a reasonable period of time in the normal course of trade. Because some evidence was received indicating that such claims may have been well founded, it was determined that an investigation of respondent's costs of production was warranted.

The respondents declined to furnish cost data during the normal 6-month period prior to the publication of a tentative determination. Lacking any information from the respondents, information furnished by the petitioner in this case and by the U.S. Steel Corp. in a companion case involving all of the respondents also in this case was determined to be the best information available at that time and was used as the basis for determining costs in order to make the tentative determination. An effort was then made to encourage the Japanese manufacturers to furnish data which could be used in making the final determination. This information was expected to be in the form of data derived from the companies' standard financial statements together with detailed explanations concerning the derivation of the costs of producing the merchandise at issue from such statements. These explanations were then to be verified from the actual records of the respondents in Japan. In response, some information was filed approximately six weeks prior to the deadline for the final determination.

The information furnished by the respondents concerning their costs of production was not identical in each case. Some firms supplied data derived from aggregate financial statements. But problems arose due to the fact that these reports could not be shown to reflect actual costs as they appear in the company books and records. In several instances, material supporting entries in the financial statements was requested but not furnished by the respondents. The verification was thereby limited to an examination of the methodology employed in the derivation of the net costs shown and the components of the formulae utilized.

Some other companies provided some data concerning costs of raw materials, labor and similar elements of costs of production, claimed to be drawn from the books and records of the companies maintained in the ordinary course of their business. However, due to the shortness of time between the submission of this data and the date by which a final determination was due, it was not possible for Customs Service personnel to "verify" that data pursuant to standards and procedures normally followed and developed over many years of experience both under the Antidumping Act and other customs laws.

With respect to all of the respondents, additional problems arose. Normal verification was negated by the fact that in several instances, the respondents would not permit the retention of, taking notes on, or reference to documents presented at the time of verification. In addition, new information was presented at the time of verification in regard to formulae utilized in derivations from financial reports of individual elements of cost. The presentation of material at the time of verification presented problems in determining what information

was to be verified and to what extent the process should be carried out.

With respect to firms which furnished data concerning individual elements of cost, certain records requested were not available at the verification site, and could not be utilized in verifying the submissions. In addition, certain of the submissions which included individual cost elements were not properly summarized in accordance with section 153.22(a), Customs Regulations (19 CFR 153.22(a)). The summaries provided failed to identify the type of data submitted and/or the methodology utilized in determining the costs presented. Due to the problems with respect to the verification of the submissions and the absence of proper nonconfidential summaries, the submissions of four of the manufacturers were rejected.

The fifth firm, Kawasaki, presented, prior to the final determination, data based in many instances on the actual costs to produce the merchandise under consideration. After the final determination, this cost data was refined to show individual costs for each quality sold in the home market and sufficient sales of such or similar merchandise were found to form the basis for fair value comparisons. In addition, Kawasaki furnished complete and adequate summaries of the information and additional verification of the information occurred. As a result, the information furnished by Kawasaki has been deemed to have been substantially verified. It has therefore been determined that this information is the most appropriate basis for determining cost of production under section 205(b) of the Act for Kawasaki.

It was determined that Kawasaki's costs should not be used with respect to the other producers as the best evidence available of their costs since information was available to the Treasury in connection with its steel "Trigger Price Mechanism" with regard to the aggregate costs for the six major steel producers in Japan, including the remaining four respondents in this case. It was felt that due to differences in product mix this data would be more accurate than Kawasaki's alone. In addition, the Kawasaki cost figures are confidential data, and the use of this information with respect to other respondents would in effect give Kawasaki's competitors access to this sensitive data.

The present case is unique in that at the very time it has been under consideration, the Treasury Department has been establishing the "Trigger Price Mechanism" (TPM) to monitor the prices of imported steel mill products. As reflected in FEDERAL REGISTER notices published on December 30, 1977 (42 FR 65214) and January 9, 1978 (43 FR 1464), this mechanism is based upon determinations of the costs of producing steel in Japan, including the carbon plate that is the subject of these proceedings. The cost of production has been calculated on the basis of submissions made by the six largest steel companies in Japan, including the five respondents in this case, to the Japanese Ministry of International Trade and Industry and transmitted, in aggregate form, to the U.S. Treasury Department. These cost figures were analyzed and corroborated by the staff of the Council on Wage and Price Stability.

It has been concluded that the information developed in the context of establishing the "Trigger Prices" for the TPM, appropriately adjusted for the time period under investigation in this case, constitutes the "best available evidence" of the cost of producing the subject merchandise by the four respondents other than Kawasaki.

The Notice of Determination of Sales at Less Than Fair Value published in the FEDERAL REGISTER of January 13, 1978, stated:

> It has been concluded that the information developed in the context of establishing the "trigger prices" for the TPM, appropriately adjusted for the time period under investigation in this case, constitutes the "best available evidence" of the cost of producing the subject merchandise by respondents. Information submitted by respondents has been examined and has also been taken into consideration to the extent it is not inconsistent with the information from which the "trigger prices" were calculated. The company data was used primarily in determining the appropriate relationship between the cost of producing finished steel products and the cost of producing the merchandise subject to this investigation by all the firms in the aggregate.

Insofar as the cost of production of carbon steel plate subject to this investigation is concerned, it has now been determined that the requirement in section 205(b) of the Act, obligating the Secretary to determine whether all costs can be recovered over a reasonable period of time must be interpreted in this case to require a determination of whether all costs can be recovered over a business cycle. The business cycle applicable to the Japanese steel industry in this particular case has been determined to include the latest trough-to-trough in utilization from 1972 through 1976, as reported in the October 1977 Report of the Council on Wage and Price Stability. It has been concluded that the average capacity utilization rate* of the Japanese steel industry for the period 1972-1976 must be applied to certain elements of the cost of production of carbon steel plate, namely labor, depreciation, interest and other fixed expenses.

Additional information relevant to distinguishing the costs of production of various qualities or grades of carbon steel plate subject to this investigation has been developed in connection with setting appropriate "trigger prices" for "extras" to be applied in connection with the Treasury's Trigger Price Mechanism for carbon steel plate imports. This information was not available at the time of our Final Determination in this case. It has now been determined that except for Kawasaki, as to which its own data is available, this information forms a reliable basis for the determination of the cost of production of individual grades or qualities of carbon steel plate relative to the cost of production of Japanese steel mill products in general. Previously only a unitary figure for the cost of production of carbon steel plate subject to this investigation could be calculated. Cost of production figures applicable to individual qualities or grades of this merchandise have now been compared to home market prices of the corresponding merchandise.

The cost of production thus established has been compared with the home market prices of each of the five companies under investigation. Any sale made at a price less than such cost of production has been disregarded and the remaining sales, made at not less than the cost of production, have been utilized in determining the appropriate home market price for each company. In each instance, the remaining, above-cost sales were deemed adequate for the purpose of establishing fair value for that respondent.

f. *Result of Fair Value Comparisons:* Using the above criteria, purchase price or exporter's sales price was found to be lower than the home market price of such or similar merchandise. Comparisons were made on 89.1 percent of the subject merchandise sold to the United States by the five manufacturers during the investigative period. Margins were found ranging from 0.4 to 20.2 percent for sales made by Nippon Steel on 87.5 percent of sales compared, from 0.1 to 55.4 percent for sales made by NKK on 81.1 percent of sales compared, from 0.1 to 26.3 percent for sales made by Kawasaki on 49.2 percent of sales compared, from 0.3 to 20.3 percent for sales made by Sumitomo on 88.2 percent of sales compared, and from 2.1 to 26.3 percent for sales made by Kobe on 89.7 percent of sales compared. Weighted-average margins over the total sales compared for each firm were 7.2 percent for Nippon Steel, 13.0 percent for NKK, 4.0 percent for Kawasaki, 7.0 percent for Sumitomo, and 6.7 percent for Kobe.

The Secretary has provided an opportunity to known interested persons to present written and oral views pur-

*Annual capacity utilization rate is the quotient of raw steel production divided by usable capacity. Usable capacity was calculated by interpolating between peak monthly production points assuming constant compound growth between peaks. The average capacity utilization rate for the period 1972-1976 is a simple average of the rates for each of those annual periods.

suant to section 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

Dated: March 21, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-8014 Filed 3-24-78; 8:45 am]

[4810-22]

Trigger Base Prices and "Extras" for Imported Steel Mill Products

On February 21, 1978, a final rulemaking took effect which amended regulations to require the filing of a Special Summary Steel Invoice (SSSI) with all entries of imported steel mill products (43 FR 6065). The information provided in the SSSI is being used to enable the Treasury Department to implement the "trigger price mechanism" for monitoring imports of basic steel mill products and to obtain statistical data on all steel mill products imports. Under the trigger price mechanism, the sales price of imported steel mill products for which trigger prices have been published in the FEDERAL REGISTER are being compared to the applicable trigger prices; sales below the trigger prices are being investigated to determine whether the Treasury Department should initiate an antidumping proceeding with respect to such or similar merchandise. Trigger base prices were published in the FEDERAL REGISTER on January 9, 1978, for a majority of the steel mill products imported during 1976 and 1977 (43 FR 1463).

I am hereby announcing additional trigger base prices and "extras" for imported steel mill products. These base prices and "extras" pertain to structural shapes (channels, angles, and "I" beams), concrete reinforcing bars, pipe and tubing, and strip. Also included are additional "extras" for plates and sheets. The base prices and "extras" are based upon evidence made available to the Treasury Department by the Japanese Ministry of International Trade and Industry (MITI), as well as other information available to the Department. The methodology used in developing these trigger prices and "extras" was published in the FEDERAL REGISTER on January 9, 1978 (43 FR 1464).

It is noted that these prices are per metric ton.

The trigger prices being announced today will be used by the Customs Service to collect information at the time of entry on all shipments of the products covered which are exported after the date of publication of this notice. However, the following rules will be applied to entries of these products covered by contracts with fixed price terms concluded before the publication date of this notice:

1. Contracts with fixed price terms between unrelated parties: If the importer documents at or before the time of entry that the shipment is being imported under such a contract with an unrelated party, the entry will not trigger an investigation even if the sales price is below the trigger price, provided that entry is made before May 31, 1978. However, failure to initiate an investigation will not diminish the right of affected interested persons to file a complaint with respect to such imports under the established procedures for antidumping cases.
2. Contracts between related parties: If the importer document at the time of entry that the shipment is being imported under a contract with a related party and the shipment is to be resold to an unrelated purchaser in the United States under a contract with fixed price terms concluded before the publication date of this notice, the entry will not trigger an investigation even if the sales price is below the trigger price, provided that delivery is made before May 31, 1978.

While these sales will not as a rule trigger a self-initiated antidumping investigation, information concerning such sales will be kept as a part of the information in the monitoring system and will be available in the event that an antidumping petition is filed with respect to such products sold by that producer or the Treasury Department decides to self-initiate an antidumping investigation of such products based upon subsequent sales.

Dated: March 22, 1978.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

STANDARD CARBON STEEL CHANNELS, ASTM A36

Category AISI 3,9

Tariff Schedule Number(s) 609.8041 0.1 ¢/lb.
609.8070 0.1 ¢/lb.

Base Price per Metric Ton $210

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$4
Gulf Coast	26	5	5
Atlantic Coast	29	4	5
Great Lakes	35	4	7

Insurance 1% of base price + extras + ocean freight

Extras

Size Extra

SIZE EXTRAS
($/MT)

SIZE	EXTRA
C1	10.00
C3	BASE*
C4	BASE*
C6	10.00
C8	15.00
C10	15.00
C12	20.00
C15	20.00

UNEQUAL LEG CARBON STEEL ANGLES ASTM A-36

Category AISI 3,9

Tariff Schedule Number(s) 609.8035 0.1 ¢/lb.
609.8060 0.1 ¢/lb.

Base Price per Metric Ton $221

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$4
Gulf Coast	26	5	5
Atlantic Coast	29	4	5
Great Lakes	35	4	7

Insurance 1% of base price + extras + ocean freight

Extras

Size Extra

REV. MAR. 1978

SIZE EXTRAS
($/MT)

SIZE	EXTRAS
3" x 2"	10.00
3-1/2" x 3"	10.00
4" x 3"	BASE*
5" x 3"	BASE*
6" x 3-1/2"	10.00
6" x 4"	10.00
8" x 4"	10.00

EQUAL LEG CARBON STEEL ANGLES ASTM A36

Category AISI 3,9

Tariff Schedule Number(s) 609.8035 0.1 ¢/lb.
609.8050 0.1 ¢/lb.

Base Price per Metric Ton $199

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$4
Gulf Coast	26	5	5
Atlantic Coast	29	4	5
Great Lakes	35	4	6

Insurance 1% of base price + extras + ocean freight

Extras

Size Extra

SIZE EXTRAS ($/MT)

SIZE	EXTRA
1" x 1"	15.00
1-1/2" x 1-1/2"	7.00
2" x 2"	BASE
3" x 3"	BASE
4" x 4"	BASE
5" x 5"	15.00
6" x 6"	25.00
8" x 8"	25.00

STANDARD CARBON STEEL "I" BEAMS ASTM A36

Category AISI 3,9

Tariff Schedule Number(s) 609.8015 0.1 ¢/lb.
609.8090 0.1 ¢/lb.

Base Price per Metric Ton $243

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$4
Gulf Coast	26	5	6
Atlantic Coast	29	5	6
Great Lakes	35	4	7

Insurance 1% of base price + extras + ocean freight

Extras

1. Size Extra

SIZE EXTRAS ($/MT)

SIZE	EXTRA
S12 x 31.8 lb./ft	Base*
S8 x 18.4 lb./ft	Base*
S6 x 12.5 lb./ft	10.00
S4 x 7.7 lb./ft	10.00

STTEEL PLATES - A5TM-A-36 1/2" x 80" x 240"

Category AISI 5

Tariff Schedule Number(s) 608.8415 7%
608.8525 9 1/2% + ADDITIONAL DUTIES (SEE HEADNOTE 4 TSUS
608.8720 8%
608. 8825 10% + ADDITIONAL DUTIES (SEE HEADNOTE 4 TSUS

Base Price per Metric Ton $266

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$3	56
Gulf Coast	25	5	8
Atlantic Coast	31	4	8
Great Lakes	40	4	10

Insurance 1% of base price + extras + ocean freight

Extras

1. Width/Thickness Extra

2. Specification Extra

3. Other Extras

Killed
Fine grain
Charpy
Normalize
Quench & Temper
Normalize & Temper
UST A435, A578 L1
A578 L2
Checker
Pickled & Oiled
Others

1 - WIDTH/THICKNESS EXTRA

($/MT)

THICKNESS / WIDTH	3/16" to under 1/4"	1/4" to under 5/16"	5/16" to under 3/8"	3/8" to under 1/2"	1/2" to under 1"	1" thru 1-3/16"	OVER 1-3/16" thru 1-3/8"	OVER 1-3/8" thru 1-1/2"	OVER 1-1/2" thru 3"	OVER 3" thru 6"	OVER 6" thru 12"
OVER 36" thru 48"	27	22	16	12	9	12	14	18	38	40	42
OVER 48" thru 60"	23	17	13	8	6	8	10	14	32	35	38
OVER 60" thru 80"	21	14	11	5	Nil	4	6	10	23	27	29
OVER 80" thru 90"	24	15	9	6	2	6	9	13	23	27	29
OVER 90" thru 100"	29	20	13	10	5	10	13	16	26	29	31
OVER 100" thru 110"	34	20	18	14	9	14	17	20	27	30	33
OVER 110" thru 120"	44	28	23	18	14	17	21	23	30	34	37
OVER 120" thru 130"	54	38	27	22	17	20	25	29	35	38	40
OVER 130" thru 140"	64	48	37	28	24	25	29	33	42	44	46
OVER 140" thru 150"		58	47	35	29	29	33	37	48	51	53
OVER 150" thru 170"			103	96	84	84	84	84	76		
OVER 170" thru 180"				103	98	98	98	98			
OVER 180" thru 185"					103	103	103	103			
OVER 185" thru 200"					106	106	106	106			

Note: (1) Extra for length: NIL

REV. MAR. 1978

3 - OTHER EXTRAS

Description		$/MT
Killed		20
Fine Grain		6
Charpy		
+40°F & up		
L		15
T		20
L & T		25
under +40°F		
L		20
T		25
L & T		30
Normalize		70
Quench & Temper		120
Normalize & Temper		120
U.S.T.		
A578 L2	(over 1/2")	40
A435, A578 L1 (9" or higher grid)	(over 3/4")	15
(under 9" grid or 100% scanning)	(over 3/4")	25
Checker		20
Pickled & Oiled		
Up to 0.172" Thickness		13
Over 0.172" Thickness		20
Others		To be specified on SSSI

SIZE AND GRADE EXTRAS
($/MT)

GRADE 40	EXTRA
#3	12.00
#4	7.00
#5 THROUGH #10	BASE
#11 THROUGH #12	12.00
GRADE 60	
#3	25.00
#4	20.00
#5 THROUGH #10	13.00
#11 THROUGH #12	25.00

PLAIN AND DEFORMED CARBON STEEL CONCRETE REINFORCING BARS ASTM A615

Category AISI 8

Tariff Schedule Number(s) 608.4000 7 1/2%
608.4100 7 1/2%

Base Price per Metric Ton $196

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$4
Gulf Coast	26	5	5
Atlantic Coast	29	4	5
Great Lakes	35	4	6

Insurance 1% of base price + extras + ocean freight

Extras

1. Size Extras
2. Grads Extras

MERCHANT QUALITY HOT ROLLED CARBON STEEL SQUARES AND ROUND CORNERED SQUARES ASTM A 36 or AISI 1020

Category AISI 10

Tariff Schedule Number(s) 608.4560 7%
608.4660 7%

Base Price per Metric Ton $243

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$5
Gulf Coast	26	5	6
Atlantic Coast	29	4	6
Great Lakes	35	4	8

Insurance 1% of base price + extras + ocean freight

Extras

1. Size Extra

SIZE EXTRAS
($/MT)

SIZE	EXTRA
3/8"	30.00
7/16"	20.00
1/2"	15.00
5/8"	5.00
3/4" to 1-3/4"	BASE
2"	10.00
2-1/4" to 3"	20.00

SIZE EXTRA
($/MT)

DIAMETER	EXTRA
7/16"	30.00
1/2"	10.00
5/8" to 1"	BASE
1-1/8" to 2"	10.00
2-1/4" to 3"	20.00

MERCHANT QUALITY HOT ROLLED CARBON STEEL ROUND BAR ASTM A36 or AISI 1020

Category AISI 10

Tariff Schedule Number(s) 608.4540 6%
608.4640 7%

Base Price per Metric Ton $243

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$5
Gulf Coast	26	5	6
Atlantic Coast	29	4	6
Great Lakes	35	4	8

Insurance 1% of base price + extras + ocean freight

Extras

1. Size Extra

MERCHANT QUALITY CARBON STEEL FLAT BARS ASTM A36 OR AISI 1020

Category AISI 10

Tariff Schedule Number(s) 608.4520 7%
608.4620 7%

Base Price per Metric Ton $221

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$4
Gulf Coast	26	5	6
Atlantic Coast	29	4	6
Great Lakes	35	4	7

Insurance 1% of base price + extras + ocean freight

Extras

1. Size Extra

Model Cost of Flat Bar (Size Extra Charts)
of Japanese Main Electric Furnace Steel Mills

(1) Flat Bar

(U.S. $ per Metric Ton)

Width/ Thickness	1/2"	5/8"	3/4"	1"	1¼"	1½"	1-3/4"	2"	2¼"	3"	3½"	4"	5"	6"	7" -- 8"
3/16"	40	30	25	15	12	12	12	12	12	*	*	*	*	*	*
1/4"	35	25	20	10	4	4	4	B	B	B	B	B	B	10	*
3/8"	*	*	20	10	4	4	4	B	B	B	B	B	B	B	12
1/2"	*	*	*	10	4	4	4	B	B	B	B	B	B	B	12
5/8"	*	*	*	20	10	10	10	4	4	4	4	4	4	4	12
3/4"	*	*	*	20	10	10	10	4	4	4	4	4	4	4	12
7/8"	*	*	*	*	*	*	*	4	4	4	4	4	4	4	12
1"	*	*	*	*	20	20	20	4	4	4	4	4	4	4	12
1-1/8"	*	*	*	*	*	*	*	*	*	8	8	8	8	8	16
1-1/4"	*	*	*	*	*	*	*	*	*	12	12	12	12	12	20
1-1/2"	*	*	*	*	*	*	*	*	*	16	16	16	16	16	24

B: Base

* Not Rolled

HOT ROLLED CARBON STEEL BAR SIZE CHANNEL ASTM A36

Category AISI 10

Tariff Schedule Number(s) 608.4560 -7%
608.4660 7%

Base Price per Metric Ton $292

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$6
Gulf Coast	26	5	7
Atlantic Coast	29	4	7
Great Lakes	35	4	9

Insurance 1% of base price + extras + ocean freight

Extras

1. Size Extras

SIZE EXTRA
($/MT)

SIZE	EXTRA
1" x 1-1/2" x 1/8"	50.00
1-1/4" x 1/2" x 1/8"	30.00
1-1/2" x 1/2" x 1/8"	30.00
2" x 1" x 1/8"	10.00
2" x 1" x 3/16"	BASE

ELECTRIC RESISTANCE WELDED CARBON STEEL PRESSURE TUBING, FOR USE IN BOILERS, HEAT EXCHANGERS, CONDENSERS, ETC.

Category AISI 14

Tariff Schedule Number(s) 610.32 0.3¢ per Lb.

Base Price per Metric Ton $437

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$ 3	$ 9
Gulf Coast		5	11
Atlantic Coast		4	12
Great Lakes		4	15

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter and Wall Thickness

B. Other Extras
(1) Specifications
(2) Steel Requirements
(3) Special Dimensional Tolerance

FREIGHT CHARGES ON PIPE AND TUBE PRODUCTS
($/MT - Applies to all products in category 14 and 15)

Freight	Pacific	Gulf	Atlantic	Great Lakes
Pipe (up to 40') Outside diameter up to:				
4"	$27	$35	$37	$50
5"	29	35	37	50
6"	31	36	37	52
8"	32	37	39	54
10"	33	38	39	56
12"	34	39	41	58
14"	35	41	41	60
16"	35	42	44	61
18"	36	43	44	63
20"	37	45	47	65

BASE PRICE INCLUDING OD/WT EXTRAS ($/MT)

ELECTRIC RESISTANCE WELDED CARBON STEEL PRESSURE TUBING

AISI 14 TSUSA 610.32

INCHES

OD/ WT	3/4	1	1¼	1½	1 3/4	2	2 1/8	2¼	2 3/8	2½	2 3/4	3	3¼	3½	4	4½
.049	742	677	633													
.065	720	611	611	567	567											
.083	633	611	567	524	502	480	480	480	458	458	458	458				
.095	633	567	567	502	480	458	458	458	458	437	437	437	437			
.105	611	546	524	480	458	458	458	437	437	437	437	437	437	437		
.109	611	546	502	458	437	437	437	437	437	437	437	415	437	437	458	
.120	611	546	502	437	437	437	437	437	437	415	415	415	415	415	458	502
.125		546	502	437	437	437	437	415	415	415	415	415	415	415	437	458
.134		546	502	437	437	437	437	415	415	415	415	415	415	415	437	458
.135		546	502	437	437	437	437	415	415	415	415	415	415	415	415	437
.148			502	437	437	437	437	415	415	415	415	415	415	415	415	437
.150			524	458	437	437	437	415	415	415	415	415	415	415	415	437
.165			524	458	437	437	437	437	415	415	415	415	415	415	415	415
.180			524	480	437	437	437	437	415	415	415	415	415	415	393	393
.200				502	437	437	437	437	437	415	415	393	393	393	393	393
.209				502	458	458	458	437	437	415	415	393	393	393	393	393
.220				524	458	458	458	437	437	415	415	393	393	393	393	393
.238					480	480	480	458	458	437	437	415	415	415	415	415
.259					524	524	524	480	458	437	437	415	415	415	415	415
.284												437	437	415	415	415
.300													458	437	437	437

ELECTRIC RESISTANCE WELD PRESSURE TUBING

SPECIFICATIONS AND SPECIAL DIMENSIONAL TOLERANCES EXTRAS

Specifications	per cent
ASTM A-178 Grade A	Base
ASTM A-178 Grade C	+ 5
ASTM A-214	Base
ASTM A-334 Grade 1	+ 10
ASTM A-423	+ 25

Steel Requirements

	per cent
Low carbon 25% mean or under (But not under 10% mean)	Base
For closer than 10 point range but not closer than 5 points	+ 5
For carbon over 25% mean thru 35% mean	+ 5
For carbon steel containing 20% to 40% copper	+ 5

Special Dimensional Tolerance

If the outside diameter tolerance is specified closer than standard ASTM or ASME specification tolerance but not less than 50% of standard ASTM or ASME specification tolerance	+ 7½%

Continuous Butt Welded Standard Pipe

Category AISI 14

Tariff Schedule Number(s) 610.32 0.3¢/lb.

Base Price per Metric Ton $278

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$ 3	$ 6
Gulf Coast		5	8
Atlantic Coast		4	8
Great Lakes		4	10

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness, including Black or Galvanized, Threaded and Coupled or Plain End.

B. Other Extras - Available on Request
1) Grooving
2) Pickling
3) Caustic Washing
4) Drifting
5) Drying
6) Cut Length

BASE PRICE, INCLUDING O.D./WT., GALVANIZING, THREADED AND COUPLED EXTRAS

CONTINUOUS BUTT WELDED PIPE AISI 14 TSUSA 610.32

DESCRIPTION	NOM. (INCHES)					O.D. (INCHES)				
	½	3/4	1	1¼	1½	2 3/8	2 7/8	3½	4	4½
STD WEIGHT, BLK, PLAIN END	300	292	286	283	283	278	278	278	283	283
EX STRONG, BLK, PLAIN END	286	286	286	286	286	286	286	286	286	286
STD WEIGHT, GALV, PLAIN END	387	373	363	357	357	353	353	353	357	357
EX STRONG, GALV, PLAIN END	369	366	363	360	360	363	363	363	360	360
STD WEIGHT, BLK, T AND C	336	324	312	309	309	303	303	303	314	314
EX STRONG, BLK, T AND C	320	318	312	312	312	312	312	312	318	318
STD WEIGHT, GALV, T AND C	423	405	389	382	382	378	378	378	388	388
EX STRONG, GALV, T AND C	403	398	389	386	386	389	389	389	392	392

ELECTRIC RESISTANCE WELDED PIPE, EXCLUDING OIL WELL CASING, WITHOUT COUPLING

Category AISI 14

Tariff Schedule Number(s) 610.32 .3¢/lb.

Base Price per Metric Ton $311

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$ 3	$ 6
Gulf Coast		5	8
Atlantic Coast		4	9
Great Lakes		4	11

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness by Grade

B. Galvanizing, Threading & Coupling

C. Other - Available on Request

1) Grooving
2) Caustic Washing
3) Pickling
4) Drifting
5) Dry (Blk. Pipe Only)
6) Weight Tolerance
7) Straightness
8) Hydrostatic Tests
9) Quantity Extras
10) Cut Length Extras

BASE PRICES INCLUDING OD/WT AND GRADE EXTRAS ($/M.T.)

ELECTRIC RESISTANCE WELD PIPE, EXCLUDING OIL WELL CASING, WITHOUT COUPLING

O.D.	W.T.	A53 & AP15L Grades A & B	API X42	API X46	5LX X52	Grades X56	Grades X60
8 5/8	.125	320	329	339	349	358	368
	.156	320	329	339	349	358	368
	.172	320	329	339	344	358	368
	.188	311	320	329	339	348	357
	.203	311	320	329	339	348	357
	.219	311	320	329	339	348	357
	.258	311	320	329	339	348	357
	.277	311	320	329	339	348	357
	.312	311	320	329	339	348	357
	.322	311	320	329	339	348	357
	.344	311	320	329	339	348	357
	.375	311	320	329	339	348	357
	.500	320	329	339	349	358	368
10 3/4	.156	320	329	339	349	358	368
	.172	320	329	339	349	358	368
	.188	320	329	339	349	358	368
	.203	311	320	329	339	348	357
	.219	311	320	329	339	348	357
	.250	311	320	329	339	348	357
	.279	311	320	329	339	348	357
	.307	311	320	329	339	348	357
	.344	311	320	329	339	348	357
	.365	311	320	329	339	348	357
	.500	320	329	339	349	358	368
12 3/4	.172	320	329	339	349	358	368
	.188	320	329	339	349	358	368
	.203	311	320	329	339	348	357
	.219	311	320	329	339	348	357
	.250	311	320	329	339	348	357
	.281	311	320	329	339	348	357
	.312	311	320	329	339	348	357
	.330	311	320	329	339	348	357
	.344	311	320	329	339	348	357
	.375	311	320	329	339	348	357
	.406	311	320	329	339	348	357
	.500	320	329	339	349	358	368
14	.188	320	329	339	349	358	368
	.203	320	329	339	349	358	368

BASE PRICES INCLUDING OD/WT AND GRADE EXTRAS ($/M.T.)

ELECTRIC RESISTANCE WELD PIPE, EXCLUDING OIL WELL CASING, WITHOUT COUPLING

O.D.	W.T.	A53 & AP15L Grades A & B	API X42	API X46	5LX X52	Grades X56	Grades X60
2 3/8	.154	348	358	368	379	389	400
	.218	357	367	378	389	399	410
2 7/8	.203	338	348	358	369	379	389
	.276	348	358	368	379	389	400
3½	.216	329	339	349	359	369	379
	.300	338	348	358	369	379	389
4	.226	329	339	349	359	369	379
	.318	338	348	358	369	379	389
4½	.125	333	348	359	369	379	389
	.141	329	339	349	359	369	379
	.156	329	339	349	359	369	379
	.172	329	339	349	359	369	379
	.188	329	339	349	359	369	379
	.203	329	339	349	359	369	379
	.219	329	339	349	359	369	379
	.237	329	339	349	359	369	379
	.337	338	348	358	369	379	389
5 9/16	.156	325	334	344	354	363	373
	.188	325	334	344	354	363	373
	.219	325	334	344	354	363	373
	.258	325	334	344	354	363	373
	.375	334	344	354	364	374	384
6 5/8	.125	334	344	354	364	374	384
	.141	334	344	354	364	374	384
	.156	325	334	344	354	363	373
	.172	325	334	344	354	363	373
	.188	325	334	344	354	363	373
	.203	325	334	344	354	363	373
	.219	325	334	344	354	363	373
	.250	325	334	344	354	363	373
	.280	325	334	344	354	363	373
	.375	325	334	344	354	363	373
	.432	334	344	354	364	374	384

BASE PRICES INCLUDING OD/WT AND GRADE EXTRAS ($/M.T.)

ELECTRIC RESISTANCE WELD PIPE, EXCLUDING OIL WELL CASING, WITHOUT COUPLING

O.D.	W.T.	A53 & AP15L Grades A & B	API X42	API X46	5LX X52	Grades X56	Grades X60
14	.219	311	320	329	339	348	357
	.250	311	320	329	339	348	357
	.281	311	320	329	339	348	357
	.312	311	320	329	339	348	357
	.344	311	320	329	339	348	357
	.375	311	320	329	339	348	357
	.438	311	320	329	339	348	357
	.500	320	329	339	349	358	368
16	.188	320	329	339	348	358	368
	.203	320	329	339	348	358	368
	.219	311	320	329	338	348	357
	.250	311	320	329	338	348	357
	.281	311	320	329	338	348	357
	.312	311	320	329	338	348	357
	.344	311	320	329	338	348	357
	.375	311	320	329	338	348	357
	.438	311	320	329	338	348	357
	.500	320	329	339	349	358	368

ELECTRIC RESISTANCE WELDED PIPE, EXCLUDING OIL WELL CASING, W/O COUPLING

AISI 14 TSUSA 610.32

GALVANIZING EXTRA: 25% of base price for specific OD/WT.

THREADING & COUPLING: 20% of base price for specific OD/WT.

GALVANIZING PLUS THREADING & COUPLING: 45% of base price for specific OD/WT.

SUBMERGED ARC WELDED PIPE

Category AISI 14

Tariff Schedule Number(s) 610.32 .3 ¢/lb.

Base Price per Metric Ton $377

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$3	$8
Gulf Coast	Table	5	10
Atlantic Coast		4	10
Great Lakes		4	13

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter and Grade Extra
B. Galvanizing
C. Other - Available on Request

(1) Caustic Washing
(2) Pickling
(3) Drifting
(4) Dry
(5) Quantity Extras
(6) Cut Length Extras

BASE PRICES INCLUDING OD AND GRADE EXTRAS ($/MT)

Submerged Arc Welded Pipe

TSUSA 610.32

	OD	Base Price
	16"	400
	18"-24"	388
	26"-48"	377
AISI 14	16"	411
	18"-24"	400
	26"-48"	388
Grade		
	16"	422
5 lb.	18"-24"	411
	26"-48"	400
	16"	437
x-42	18"-24"	422
	26"-48"	411
	16"	449
x-46	18"-24"	437
	26"-48"	422
	16"	460
x-52	18"-24"	449
	26"-48"	437
	16"	471
x-56	18"-24"	460
	26"-48"	449
x-60		
x-65		

SUBMERGED ARC WELDED PIPE (% OF BASE PRICE EXTRA)

GALVANIZING EXTRA: 1.8 to 2.0 oz Coating

WT / OD	.250	.281	.312	.344	.375	.406	.438	.469	.500	.562	.625	.656	.688	.750
16"	4.0	4.1	4.1	4.2	4.2	4.2	4.2	4.2	4.2					
24"	4.0	4.1	4.1	4.2	4.2	4.2	4.2	4.2	4.2					
26"	4.0	4.1	4.1	4.2	4.2	4.2	4.2	4.2	4.2	4.1	4.1	4.0		
30"		4.1	4.2	4.2	4.3	4.3	4.3	4.3	4.3	4.2	4.1	4.1		
34"		4.1	4.2	4.2	4.2	4.3	4.3	4.3	4.3	4.2	4.1	4.1		
36"		4.1	4.1	4.2	4.2	4.2	4.2	4.2	4.2	4.1	4.1	4.0		
40"			3.9	3.9	4.0	4.0			4.0					
42"			3.9	3.9	4.0	4.0	4.0	4.0	4.0	3.9	3.9	3.8	3.7	3.7
44"				3.9	3.9	4.0	4.0	4.0	4.0	3.9	3.8	3.8	3.7	3.6
46"				3.9	3.9	3.9	3.9	3.9	3.9	3.9	3.8	3.8	3.7	3.6
48"					3.9	3.9	3.9	3.9	3.9	3.8	3.8	3.8	3.7	3.6

SEAMLESS CARBON STEEL OIL WELL CASING, NOT THREADED, UP TO SEVEN INCHES IN OUTSIDE DIAMETER

AISI CATEGORY: 15

Tariff Schedule Number (s) 610.39 0.1 ¢/lb

Base Price per Metric Ton $368

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$3	$ 7
Gulf Coast	Table	5	10
Atlantic Coast		4	10
Great Lakes		4	12

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

Base Prices Including OD/WT Extras ($/MT)

SEAMLESS CARBON STEEL OIL CASING, NOT THREADED, UP TO SEVEN INCHES IN OUTSIDE DIAMETER

AISI 15 TSUSA 610.39

OD	WT	Base Price
4 1/2"	.224	400
	.250	392
5"	.253	384
	.296	379
5 1/2"	.244	381
	.275	374
	.304	368

SEAMLESS CARBON STEEL OIL WELL CASING, NOT THREADED, SEVEN INCHES AND OVER IN OUTSIDE DIAMETER

CATEGORY AISI 15

Tariff Schedule Number (s) 610.39 0.1 ¢/lb.

Base Price per Metric Ton $364

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$3	$ 7
Gulf Coast	Table	5	10
Atlantic Coast		4	10
Great Lakes		4	12

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

Base Prices Including OD/WT Extras ($/MT)

SEAMLESS CARBON STEEL OIL WELL CASING, NOT THREADED, SEVEN INCHES & OVER IN OUTSIDE DIAMETER

AISI 15 TSUSA 610.39

OD	WT	Base Price
7"	.272	374
	.317	365
8 5/8"	.264	380
	.352	364
9 5/8"	.352	364
	.395	364
10 3/4"	.350	363
	.400	364
	.450	363
11 3/4"	.375	365
	.435	364
	.489	362
13 3/8"	.380	376
	.430	375
	.480	374
16"	.438	401
	.495	397
	.656	397
20"	.438	424
	.500	424
	.635	424
	.812	424

Seamless Carbon Steel Oil Well Casing, Threaded, Seven Inches and Over in Outside Diameter

Category AISI 15

Tariff Schedule Number(s) 610.42 7½%

Base Price per Metric Ton $413

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$ 3	$ 9
Gulf Coast		5	12
Atlantic Coast		4	12
Great Lakes		4	15

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

BASE PRICES INCLUDING OD/WT EXTRAS ($/MT)

SEAMLESS CARBON STEEL OIL WELL CASING, THREADED, 7 INCHES & OVER

AISI 15 TSUSA 610.42

OD	WT	BASE PRICE
7"	.272	425
	.317	419
8 5/8"	.264	432
	.352	414
9 5/8"	.352	413
	.395	413
10 3/4"	.350	413
	.400	413
	.450	412
11 3/4"	.375	415
	.435	413
	.489	412
13 3/8"	.380	428
	.430	426
	.480	425

SEAMLESS CARBON STEEL OIL WELL CASING, THREADED , UP TO SEVEN INCHES IN OUTSIDE DIAMETER

Category AISI 15

Tariff Schedule Number(s) 610.42 7 1/2%

Base Price per Metric Ton $418

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$3	$9
Gulf Coast	Table	5	12
Atlantic Coast		4	12
Great Lakes		4	15

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

BASE PRICES INCLUDING OD/WT EXTRAS ($/MT)

Seamless Carbon Steel Oil Well Casing, Threaded, Up to Seven Inches

AISI 15 TSUSA 610.42

OD	WT	Base Price
4 1/2"	.224	455
	.250	446
5"	.253	437
	.296	431
5 1/2"	.244	433
	.275	425
	.304	418

ELECTRIC RESISTANCE WELDED CARBON STEEL
OIL WELL CASING, NOT THREADED

Category AISI 15

Tariff Schedule Number(s) 610.39 0.1 ¢/lb.

Base Price per Metric Ton $328

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$3	$7
Gulf Coast	Table	5	9
Atlantic Coast		4	9
Great Lakes		4	11

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

BASE PRICES INCLUDING OD/WT EXTRAS ($/MT)[a]

Electric Resistance Welded Carbon Steel Oil Well Casing, Not Threaded.

OD	WT	$/MT
4 1/2"	.205	348
	.224	348
	.250	348
5"	.220	348
	.253	348
	.296	348
5 1/2"	.244	342
	.275	342
	.304	342
6 5/8"	.288	342
	.352	342
7"	.272	342
	.317	342
8 5/8"	.264	328
	.304	328
	.352	328
	.400	328
9 5/8"	.312	328
	.352	328
	.395	328
10 3/4"	.279	328
	.350	328
	.400	328
	.450	328
13 3/8"	.330	328
	.380	328
	.430	328
	.480	328
16"	.375	328
	.438	328
	.495	328
20"	.438	328
	.500	328

a. Grade J-55 Base, Grade H-40 deduct 5%

ELECTRIC RESISTANCE WELDED CARBON STEEL
OIL WELL CASING, THREADED

Category AISI 15

Tariff Schedule Number(s) 610.42 7 1/2%

Base Price per Metric Ton $387

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$3	$8
Gulf Coast	Table	5	11
Atlantic Coast		4	11
Great Lakes		4	14

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

BASE PRICES INCLUDING OD/WT EXTRAS ($/MT)[a]

Electric Resistance Welded Carbon Steel Oil Well Casing, Threaded

OD	WT	$/MT
4 1/2"	.205	410
	.224	410
	.250	410
5"	.220	410
	.253	410
	.296	410
5 1/2"	.244	402
	.275	402
	.304	402
6 5/8"	.288	402
	.352	402
7"	.272	402
	.317	402
8 5/8"	.264	387
	.304	387
	.352	387
	.400	387
9 5/8"	.312	387
	.352	387
	.395	387
10 3/4"	.279	387
	.350	387
	.400	387
	.450	387
3 3/8"	.330	387
	.380	387
	.430	387
	.480	387
16"	.375	387
	.438	387
	.495	387
20"	.438	387
	.500	387

a. Grade J-55 Base, Grade H-40 deduct 5%.

SEAMLESS CARBON STEEL PRESSURE TUBING, SUITABLE FOR USE IN BOILERS, SUPERHEATERS, HEAT EXCHANGERS, CONDENSERS, REFINING FURNACES, FEED WATER HEATERS, AND COLD FINISH

Category AISI 15

Tariff Schedule Number(s) 610.49 - 10½%

Base Price per Metric Ton $702

Charges to CIF	Ocean Freight	Handling	Interest
West Coast		$ 3	$15
Gulf Coast	See Freight Table	5	19
Atlantic Coast		4	19
Great Lakes		4	24

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness

B. Hot Finished and Quantity Extras

BASE PRICES INCLUDING OD/WT EXTRAS ($MT)
SEAMLESS CARBON STEEL PRESSURE TUBING, COLD FINISH

AISI 15 TSUSA 610.49

OD Inches/ Wall Thickness	1/2	9/16	5/8	11/16	3/4	13/16	7/8	15/16
.035	3835	3511	3187	2971	2755	2647	2593	2539
.042	3403	3133	2971	2863	2647	2485	2323	2215
.045	3403	3133	2971	2701	2485	2431	2323	2215
.050	3133	2863	2701	2485	2269	2215	2107	2052
.055	2917	2647	2845	2323	2161	2052	1944	1890
.060	2755	2593	2323	2161	2052	1944	1836	1782
.065	2755	2845	2269	2052	1998	1890	1782	1674
.075	2845	2215	2025	1836	1782	1674	1566	1512
.085	2269	1998	1836	1674	1620	1512	1458	1404
.095	2161	1890	1728	1566	1512	1404	1350	1296
.105	2052	1782	1620	1458	1404	1296	1242	1188
.110	1998	1728	1566	1458	1377	1269	1215	1188
.125	1836	1620	1431	1350	1242	1161	1107	1080
.135	1836	1566	1404	1296	1188	1107	1080	1026
.150	1836	1566	1404	1242	1188	1080	1026	972
.156				1242	1188	1080	1026	972
.165					1188	1080	1026	972
.180					1134	1080	1026	972
.188					1134	1080	1026	972
.203						1080	1026	972
.220							1026	1026
.240								1026
.250								

OD Inches/ Wall Thickness	1	1-1/16	1-1/8	1-3/16	1-1/4	1-5/16	1-3/8	1-7/16
.035	2485	2377	2323	2269	2269	2269	2269	2269
.042	2107	2052	1998	1998	1998	1998	1944	1944
.045	2107	2052	1998	1998	1998	1998	1944	1890
.050	1944	1890	1836	1836	1836	1836	1782	1728
.055	1782	1782	1782	1782	1782	1728	1674	1620
.060	1728	1674	1674	1674	1674	1620	1566	1566
.065	1620	1566	1566	1566	1566	1512	1458	1458
.075	1458	1404	1404	1404	1404	1350	1296	1296
.085	1350	1296	1296	1269	1269	1215	1188	1188
.095	1242	1188	1188	1161	1161	1107	1080	1080
.105	1188	1134	1107	1080	1080	1026	1026	1026
.110	1188	1134	1080	1053	1053	1026	1026	1026
.125	1080	1026	972	972	945	918	918	918
.135	1026	972	972	918	918	918	918	918
.150	972	972	972	918	918	918	918	918
.156	972	972	972	918	918	918	918	918
.165	972	972	972	918	918	918	918	918
.180	972	918	918	918	918	918	918	918
.188	972	918	918	918	918	918	918	918
.203	972	918	918	918	891	864	864	864
.220	972	918	918	918	864	864	864	864
.240	972	918	918	918	864	864	864	864
.250	972	918	918	918	864	864	864	864

OD Inches/ Wall Thickness	1	1-1/16	1-1/8	1-3/16	1-1/4	1-5/16	1-3/8	1-7/16
.260			918	918	864	864	864	864
.284			918	864	837	810	810	810
.300				864	810	810	810	810
.313				864	810	810	810	810
.320					864	810	810	810
.340					864	810	810	810
.360					864	810	810	810
.375					864	810	810	810
.400							864	864
.420							918	918
.438							918	918
.460								
.500								
.531								
.563								
.594								
.625								
.688								
.750								
.813								
.875								
.938								
1.000								

OD Inches/ Wall Thickness	1-1/2	1-5/8	1-3/4	1-7/8	2	2-1/8	2-1/4	2-3/8
.035	2215	2215	2215	2215	2161	2161	2161	2161
.042	1890	1890	1890	1890	1836	1836	1836	1836
.045	1890	1890	1890	1890	1836	1836	1836	1836
.050	1728	1728	1728	1728	1674	1674	1674	1674
.055	1620	1620	1620	1620	1566	1566	1566	1566
.060	1512	1512	1512	1512	1458	1458	1458	1458
.065	1404	1404	1404	1404	1350	1350	1350	1350
.075	1242	1242	1242	1242	1188	1188	1188	1188
.085	1188	1134	1107	1107	1080	1080	1080	1080
.095	1080	1026	1026	1026	972	972	972	972
.105	1026	972	972	972	918	918	918	918
.110	1026	972	972	972	972	918	918	918
.125	918	864	864	864	864	864	864	864
.135	918	864	864	864	864	864	864	864
.150	918	864	864	864	864	810	810	810
.156	918	864	864	864	864	810	810	810
.165	918	864	864	864	864	810	810	810
.180	918	864	810	810	810	810	810	810
.188	918	864	810	810	810	810	810	783
.203	864	810	810	810	810	810	810	783
.220	864	810	756	756	756	756	756	756
.240	864	810	756	756	756	756	756	756
.250	864	810	756	756	756	756	756	756

OD Inches/ Wall Thickness	2-1/2	2-5/8	2-3/4	2-7/8	3	3-1/8	3-1/4	3-3/8
.035	2215	2269	2323	2323	2377	2431	2431	2431
.042	1890	1944	1944	1944	1998	2052	2052	2052
.045	1782	1836	1836	1836	1890	1944	1944	1944
.050	1620	1674	1674	1674	1674	1674	1674	1674
.055	1512	1458	1458	1458	1512	1512	1512	1512
.06	1404	1377	1377	1377	1377	1377	1350	1350
.065	1296	1296	1296	1296	1350	1350	1350	1350
.075	1134	1134	1134	1134	1188	1188	1188	1188
.085	1026	1026	1026	1026	1080	1080	1080	1080
.095	972	972	972	972	972	972	972	972
.105	918	918	918	918	891	891	891	891
.110	918	918	918	891	864	864	864	864
.125	864	837	837	810	783	783	783	783
.135	837	810	783	756	756	756	756	756
.15	810	783	756	756	756	756	756	756
.156	810	783	756	756	756	756	756	756
.165	810	783	756	756	756	756	756	756
.180	783	756	756	756	756	756	756	756
.188	756	729	729	729	729	729	729	729
.203	756	729	702	702	702	702	702	702
.22	729	702	702	702	702	702	702	702
.24	729	702	702	702	702	702	702	702
.25	729	702	702	702	702	702	702	702

OD Inches/ Wall Thickness	1-1/2	1-5/8	1-3/4	1-7/8	2	2-1/8	2-1/4	2-3/8
.260	864	810	756	756	756	756	756	756
.284	810	756	756	756	702	702	702	702
.300	810	756	756	756	702	702	702	702
.313	810	756	756	756	702	702	702	702
.320	810	756	756	756	702	702	702	702
.340	810	756	756	756	702	702	702	702
.360	810	756	756	756	702	702	702	702
.375	810	756	756	756	702	702	702	702
.400	864	810	810	756	702	702	702	702
.420	918	810	810	756	702	702	702	702
.438	918	864	810	756	702	702	702	702
.460	918	864	810	810	756	702	702	702
.480	918	864	810	810	756	702	702	702
.500	918	864	810	810	756	702	702	702
.531			864	810	756	702	702	702
.563			864	810	756	702	702	702
.594					756	756	756	756
.625					756	756	756	756
.688								
.750								
.813								
.875								
.938								
1.000								

OD Inches/ Wall Thickness	2-1/2	2-5/8	2-3/4	2-7/8	3	3-1/8	3-1/4	3-3/8
.260	729	702	702	702	702	702	702	702
.284	702	702	702	675	675	675	648	648
.300	702	702	702	675	648	648	648	648
.313	702	702	702	675	648	648	648	648
.320	702	702	702	675	648	648	648	648
.340	702	702	702	675	648	648	648	648
.360	702	702	702	675	648	648	648	648
.375	702	702	702	675	648	648	648	648
.400	702	702	702	675	648	648	648	648
.420	702	702	702	675	648	648	648	648
.438	702	702	702	675	648	648	648	648
.460	702	702	702	675	648	648	648	648
.480	702	702	702	675	648	648	648	648
.500	702	702	702	675	648	648	648	648
.531	702	702	675	648	648	648	648	648
.563	702	702	675	648	648	648	648	648
.594	702	702	702	702	675	648	648	648
.625	702	702	702	702	675	648	648	648
.688	756	756	756	729	702	702	702	675
.750	756	756	756	729	702	702	702	675
.813		756	756	729	702	702	702	675
.875		756	756	756	756	729	702	675
.938			756	756	756	756	756	729
1.000			756	756	756	756	756	729
1.125								702

OD Inches/ Wall Thickness	3-1/2	3-5/8	3-3/4	3-7/8	4	4-1/8	4-1/4	4-3/8
.035								
.042								
.045								
.050								
.055								
.060	1458	1458						
.065	1404	1377	1377	1377				
.075	1242	1215	1215	1215	1242	1404	1404	1620
.085	1107	1080	1080	1080	1107	1242	1242	1404
.095	999	972	972	972	999	1134	1134	1242
.105	918	891	891	891	918	1053	1053	1107
.110	891	864	864	864	891	1026	1026	1026
.125	810	810	810	810	810	918	918	918
.135	756	756	756	810	810	864	864	864
.150	756	756	756	756	756	810	810	810
.156	756	756	756	756	756	783	783	783
.165	756	756	756	756	756	756	756	756
.180	756	756	756	756	756	756	756	756
.188	729	729	729	729	729	729	756	756
.203	702	702	702	702	702	702	756	756
.220	702	702	702	702	702	702	756	756
.240	702	702	702	702	702	702	702	729
.250	702	702	702	702	702	702	702	702

OD Inches/ Wall Thickness	3-1/2	3-5/8	3-3/4	3-7/8	4	4-1/8	4-1/4	4-3/8
1.125	675	675	648	648	648	648	648	648
1.25				648	648	648	648	648
1.375								648

OD Inches/ Wall Thickness	3-1/2	3-5/8	3-3/4	3-7/8	4	4-1/8	4-1/4	4-3/8
.260	702	702	702	702	702	702	702	702
.284	648	648	648	648	648	648	648	648
.300	648	648	648	648	648	648	648	648
.313	648	648	648	648	648	648	648	648
.320	648	648	648	648	648	648	648	648
.340	648	648	648	648	648	648	648	648
.360	648	648	648	648	648	648	648	648
.375	648	648	648	648	648	648	648	648
.400	648	648	648	648	648	648	648	648
.420	648	648	648	648	648	648	648	648
.438	648	648	648	648	648	648	648	648
.460	648	648	648	648	648	648	648	648
.480	648	648	648	648	648	648	648	648
.500	648	648	648	648	648	648	648	648
.531	648	648	648	648	648	648	648	648
.563	648	648	648	648	648	648	648	648
.594	648	648	648	648	648	648	648	648
.625	648	648	648	648	648	648	648	648
.688	648	648	648	648	648	648	648	648
.750	648	648	648	648	648	648	648	648
.813	648	648	648	648	648	648	648	648
.875	648	648	648	648	648	648	648	648
.938	702	675	648	648	648	648	648	648
1.000	702	675	648	648	648	648	648	648

OD Inches/ Wall Thickness	4-1/2	4-5/8	4-3/4	4-7/8	5	5-1/8	5-1/4	5-3/8
.042								
.045								
.050								
.055								
.060								
.065								
.075								
.085	1404	1404	1404	1404	1404	1404	1404	
.095	1242	1242	1242	1242	1242	1242	1242	1269
.105	1107	1107	1107	1134	1134	1134	1134	1134
.110	1026	1026	1026	1080	1080	1080	1080	1080
.125	918	918	918	972	972	972	972	972
.135	864	864	864	918	918	918	918	918
.150	810	810	810	837	864	864	864	864
.156	810	810	810	810	864	864	864	864
.165	810	810	810	810	837	837	837	837
.180	810	810	810	810	810	810	810	810
.188	783	783	783	783	783	783	783	783
.203	756	756	756	756	756	756	756	756
.220	756	756	756	756	756	756	756	756
.240	756	756	756	756	756	756	756	756
.250	729	729	729	729	729	729	729	729

OD Inches/ Wall Thickness	4-1/2	4-5/8	4-3/4	4-7/8	5	5-1/8	5-1/4	5-3/8
.260	729	729	729	729	729	729	729	729
.284	702	702	702	702	702	702	702	702
.300	675	675	675	675	675	675	675	675
.313	675	675	675	675	675	675	675	675
.320	675	675	675	675	675	675	675	675
.340	648	648	648	648	648	648	648	648
.360	648	648	648	648	648	648	648	648
.375	648	648	648	648	648	648	648	648
.400	648	648	648	648	648	648	648	648
.420	648	648	648	648	648	648	648	648
.438	648	648	648	648	648	648	648	648
.460	648	648	648	648	648	648	648	648
.480	648	648	648	648	648	648	648	648
.500	648	648	648	648	648	648	648	648
.531	648	648	648	648	648	648	648	648
.563	648	648	648	648	648	648	648	648
.594	648	648	648	648	648	648	648	648
.625	648	648	648	648	648	648	648	648
.688	648	648	648	648	648	648	648	648
.750	648	648	648	648	648	648	648	648
.813	648	648	648	648	648	648	648	648
.875	648	648	648	648	648	648	648	648
.938	648	648	648	648	648	648	648	648
1.000	648	648	648	648	648	648	648	648

OD Inches/ Wall Thickness	5-1/2	5-3/4	6	6-1/4	6-1/2	6-5/8	6-3/4	
.035								
.042								
.045								
.050								
.055								
.060								
.065								
.075								
.085								
.095	1242							
.105	1134	1134	1242	1242				
.110	1134	1134	1188	1188	1188	1188	1188	
.125	1026	1026	1053	1053	1053	1053	1053	1188
.135	972	972	999	999	999	999	999	1134
.150	918	918	918	918	918	918	918	1026
.156	918	918	918	918	918	918	918	1026
.165	891	891	891	891	891	918	918	972
.180	864	864	864	864	864	864	864	918
.188	837	837	837	837	837	864	864	918
.203	810	810	810	810	810	810	810	864
.220	810	810	810	810	810	810	810	810
.240	756	756	756	756	756	756	756	756
.250	729	729	729	729	729	729	729	729
.260	729	729	729	729	729	729	729	729
.284	702	675	675	675	675	675	675	675

OD Inches/ Wall Thickness	4-1/2	4-5/8	4-3/4	4-7/8	5	5-1/8	5-1/4	5-3/8
1.125	648	648	648	648	648	648	648	648
1.250	648	648	648	648	648	648	648	648
1.375	648	648	648	648	648	648	648	648
1.500	648	648	648	648	648	648	648	648

OD Inches/ Wall Thickness	5-1/2	5-3/4	6	6-1/4	6-1/2	6-5/8	6-3/4	7
.300	675	648	648	648	648	648	648	648
.313	648	648	648	648	648	648	648	648
.320	648	648	648	648	648	648	648	648
.340	648	648	648	648	648	648	648	648
.360	648	648	648	648	648	648	648	648
.375	648	648	648	648	648	648	648	648
.400	648	648	648	648	648	648	648	648
.420	648	648	648	648	648	648	648	648
.438	648	648	648	648	648	648	648	648
.460	648	648	648	648	648	648	648	648
.480	648	648	648	648	648	648	648	648
.500	648	648	648	648	648	648	648	648
.531	648	648	648	648	648	648	648	648
.563	648	648	648	648	648	648	648	648
.594	648	648	648	648	648	648	648	648
.625	648	648	648	648	648	648	648	648
.688	648	648	648	648	648	648	648	648
.750	648	648	648	648	648	648	648	648
.813	648	648	648	648	648	648	648	648
.875	648	648	648	648	648	648	648	648
.938	648	648	648	648	648	648	648	648
1.000	648	648	648	648	648	648	648	648

OD Inches/ Wall Thickness	5-1/2	5-3/4	6	6-1/4	6-1/2	6-5/8	6-3/4	7
1.125	648	648	648	648	648	648	648	648
1.250	648	648	648	648	648	648	648	648
1.375	648	648	648	648	648	648	648	648
1.500	648	648	648	648	648	648	648	648
1.625	648	648	648	648	648	648	648	648
1.750			648	648	648	648	648	648
1.875			648	648	648	648	648	648
2.000			648	648	648	648	648	648

OD Inches/ Wall Thickness	7-1/4	7-1/2	7-5/8	7-3/4	8	8-1/4	8-1/2	8-5/8
.035								
.042								
.045								
.050								
.055								
.060								
.065								
.075								
.085								
.095								
.105								
.110								
.125								
.135	1188	1242						
.150	1080	1107	1107	1107				
.156	1053	1080	1080	1080				
.165	1026	1026	1026	1026				
.180	945	945	945	945				
.188	918	918	918	918	918	945	945	945
.203	864	864	864	864	864	891	891	891
.220	810	810	810	810	810	837	837	837
.240	756	756	756	756	756	783	783	783
.250	729	729	729	729	729	756	756	756
.260	729	729	729	729	729	756	756	756

OD Inches/ Wall Thickness	7-1/4	7-1/2	7-5/8	7-3/4	8	8-1/4	8-1/2-	8-5/8
.284	702	702	702	702	702	702	702	702
.300	702	702	702	702	702	702	702	702
.313	702	702	702	702	702	702	702	702
.320	702	702	702	702	702	702	702	702
.340	702	702	702	702	702	702	702	702
.360	702	702	702	702	702	702	702	702
.375	702	702	702	702	702	702	702	702
.400	675	675	675	675	675	675	702	702
.420	648	648	648	648	648	648	702	702
.438	648	648	648	648	648	648	702	702
.460	648	648	648	648	648	648	702	702
.480	648	648	648	648	648	648	702	702
.500	648	648	648	648	648	648	702	702
.531	648	648	648	648	648	648	702	702
.563	648	648	648	648	648	648	702	702
.594	648	648	648	648	648	648	702	702
.625	648	648	648	648	648	648	702	702
.688	648	648	648	648	648	648	702	702
.750	648	648	648	648	648	648	702	702
.813	648	648	648	648	648	648	675	702
.875	648	648	648	648	648	648	648	702
.938	648	648	648	648	648	648	648	702
1.000	648	648	648	648	648	648	648	702

OD Inches/ Wall Thickness	7-1/4	7-1/2	7-5/8	7-3/4	8	8-1/4	8-1/2	8-5/8
1.125	648	648	648	648	648	648	648	648
1.25	648	648	648	648	648	648	648	648
1.375	648	648	648	648	648	648	648	648
1.500	648	648	648	648	648	648	648	648
1.625	648	648	648	648	648	648	648	648
1.750	648	648	648	648	648	648	648	648
1.875	648	648	648	648	648	648	648	648
2.000	648	648	648	648	648	648	648	648

OD Inches/ Wall Thickness	8-3/4	9	9-1/4	9-1/2	9-3/4	10	10-1/4	10-1/2
0.125								
.135								
.150								
.156								
.180								
.203								
.220	999	1053	1080	1134	1188	1215	1431	1728
.240	891	945	972	999	1080	1242	1296	1539
.250	837	891	918	945	972	1188	1242	1431
.260	783	837	864	864	918	1134	1188	1215
.284	702	756	756	756	810	999	1080	1215
.300	702	756	756	756	756	891	945	1134
.313	702	756	756	756	756	837	891	1080
.320	702	756	756	756	756	837	891	999
.340	702	756	756	756	756	837	891	945
.360	702	756	756	756	756	837	891	918
.375	702	756	756	756	756	837	837	891
.400	702	756	756	756	756	837	837	891
.420	702	756	756	756	756	837	837	891
.438	702	756	756	756	756	837	837	891
.460	702	756	756	756	756	837	837	891
.480	702	756	756	756	756	837	837	891
.500	702	729	729	729	729	837	837	864

OD Inches/ Wall Thickness	10-3/4
.125	
.135	
.150	
.156	
.165	
.180	
.188	
.203	
.220	1728
.240	1539
.250	1431
.260	1377
.284	1215
.300	1134
.313	1080
.320	1080
.340	999
.360	972
.375	945
.400	891
.420	891
.438	891
.460	891
.480	891
.500	864
.531	837

OD Inches/ Wall Thickness	8-3/4	9	9-1/4	9-1/2	9-3/4	10	10-1/4	10-1/2
.531	702	702	702	702	702	837	837	837
.563	702	702	702	702	702	837	837	837
.594	702	702	702	702	702	837	837	837
.625	702	702	702	702	702	837	837	837
.688	702	702	702	702	702	837	837	837
.750	702	702	702	702	702	837	837	837
.813	702	702	702	702	702	837	837	837
.875	702	702	702	702	702	837	837	837
.938	702	702	702	702	702	837	837	837
1.000	702	702	702	702	702	837	837	837
1.125	702	702	702	702	702	837	837	837
1.250	702	702	702	702	702	837	837	837
1.375	702	702	702	702	702	783	783	783
1.500	702	702	702	702	702	783	783	783
1.625	702	702	702	702	702	783	783	783
1.750	702	702	702	702	702	783	783	783
1.875	702	702	702	702	702	783	783	783
2.000	702	702	702	702	702	783	783	783

OD Inches/ Wall Thickness	10-3/4
.563	837
.594	837
.625	837
.688	837
.750	837
.813	837
.875	837
.938	837
1.000	837
1.125	837
1.250	837
1.375	783
1.500	783
1.625	783
1.750	783
1.875	783
2.000	783

HOT FINISHED TUBES ---------- 20% deduction

QUANTITY EXTRAS

The total quantity of one size (OD and wall thickness) of one analysis, one shape, one grade of hot finishing or of cold finishing, identically packaged and identically shipped determines the quantity extras.

Quantity Brackets	Extras
Under 150 lbs. or 150 ft.	+210%
150 to 299 lbs. or feet inclusive	+135%
300 to 599 " " "	+ 95%
600 to 1,999 lbs. or feet inclusive	+ 75%
2,000 to 4,999 lbs. or feet inclusive	+ 45%
5,000 to 9,999 " " "	+ 30%
10,000 to 19,999 lbs. or feet inclusive	+ 20%
20,000 to 29,999 " " "	+ 10%
30,000 to 39,999 " " "	+ 5%
40,000 lbs. or feet or over	base

BASE PRICES INCLUDING OD, GRADE EXTRAS
($/MT)

Seamless Carbon Steel Oil Well Tubing,
With Short Thread and Coupling

AISI 15 TSUSA 610.49

Outside Diameter (inches) \ Grade	H40 J55 K55	N80 C75 L80 L90 Others 80-85	P105 Others 90 and up
2 3/8" and under	605	770	930
2 7/8"-4"	550	699	842

SEAMLESS CARBON STEEL OIL WELL TUBING, WITH COUPLING

Category AISI 15

Tariff Schedule Number(s) 610.49 10 1/2%

Base Price per Metric Ton $550

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$3	$12
Gulf Coast		5	15
Atlantic Coast		4	15
Great Lakes		4	19

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness and Grade Extras
B. Threading and Coupling Extras

SEAMLESS CARBON STEEL OIL WELL TUBING,
WITH SHORT THREAD AND COUPLING

Thread and coupling:

Short thread and coupling	base
Long thread and coupling	base + 5%
Buttress thread and coupling	base + 7%

Deductions

Without coupling	base - 2.5%
Plain end	base - 5%

SEAMLESS CARBON STEEL LINE PIPE

Category AISI 15

Tariff Schedule Number(s) 610.49 - 10 1/2%

Base Price per Metric Ton $379

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight Table	$3	$8
Gulf Coast		5	11
Atlantic Coast		4	11
Great Lakes		4	14

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness
B. Grade, Threaded and Coupled, Galvanized

BASE PRICES INCLUDING OD/WT EXTRAS

Seamless Carbon Steel Line Pipe

ASTM A 53 Grades A and B, Black, Plain End

(AISI 15; TSUSA 610.49)

Dimensions Outside Diameter (inches)	Wall Thickness (inches)	Base Price ($/MT)	Dimensions Outside Diameter (inches)	Wall Thickness (inches)	Base Price ($/MT)
2 3/8	0.154	503	8 5/8	0.277	391
2 3/8	0.218	463	8 5/8	0.322	386
2 3/8	0.436	490	8 5/8	0.500	398
			8 5/8	0.875	437
2 7/8	0.203	426			
2 7/8	0.276	434	10 3/4	0.279	388
2 7/8	0.552	463	10 3/4	0.307	386
			10 3/4	0.365	379
3 1/2	0.216	414	10 3/4	0.500	389
3 1/2	0.300	423			
3 1/2	0.600	452	12 3/4	0.330	392
			12 3/4	0.375	385
4	0.226	422	12 3/4	0.500	394
4	0.318	427			
4	0.636	466			
4 1/2	0.237	413			
4 1/2	0.337	418			
4 1/2	0.674	455			
5 9/16	0.258	446			
5 9/16	0.375	435			
5 9/16	0.750	463			
6 5/8	0.280	394			
6 5/8	0.432	404			
6 5/8	0.864	438			

SEAMLESS CARBON STEEL LINE PIPE

Grade:

Grades A and B	base
ASTM A106	+5%
API 5LX	
X42	+$30/MT
X46	+$5/MT
X52	+$15/MT

Threaded and Coupled:

NB 1/2"-3/4"	$130/MT
1"-1 1/2"	$80/MT
2"-6"	$60/MT
8"-14"	$55/MT

Galvanized:

NB 1/2"-3/4"	$180/MT
1"-1 1/2"	$135/MT
2"-6"	$55/MT
8"-14"	$50/MT

REV. MAR. 1978

HOT ROLLED STEEL SHEETS - CUT LENGTH - ASTM A569
0.121" x 48" x 96"

Category AISI 25

Tariff Schedule Number(s) 608.8440 - 7 1/2%
608.8565 - 9 1/2% + ADDITIONAL DUTIES (SEE HEADNOTE 4 TSUS)
608.8742 - 8%

Sheets over 0.1875 inch in thickness classifiable as plates.

Base Price per Metric Ton $231

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$3	$6
Gulf Coast	25	5	8
Atlantic Coast	31	4	8
Great Lakes	40	4	10

Insurance 1% of base price + extras + ocean freight

Extras

1. Width Thickness Extra
2. Cut Length Extra
3. Specification Extra
4. Other Extras

3 - SPECIFICATION EXTRA

Specification	Thickness	$/MT
A570		
D		15
E		15
D-A607-G45		23
50		26
D-CORTEN A		60
ASTM & ASME		
A36	1-1/2" or less	Nil
	over 1-1/2"	20
A283 Gr. A, B, C, D	1-1/2" or less	Nil
	over 1-1/2"	20
A285 Gr. A, B, C	1-1/2" or less	17
	over 1-1/2"	20
A515	1-1/2" or less	37
Gr. 55, 60, 65, 70	over 1-1/2" up to 2"	40
Gr. 55, 60, 65	over 2" up to 8"	41
Gr. 70	over 2" up to 8"	43
Gr. 55	over 8" up to 12"	41
A516		
Gr. 55, 60	1/2" or less	43
Gr. 65, 70	1/2" or less	45
Gr. 55, 60, 65, 70	over 1/2" up to 1-1/2"	45
Gr. 55, 60, 65, 70	over 1-1/2" up to 8"	49
Gr. 55	over 8"	49
A455		
Type 1	-	25
Type 2	-	45
A537, Class 1	5/16" or less	170
	over 5/16" up to 1/2"	157
	over 1/2" up to 1"	148
	over 1" up to 1-1/2"	146
	over 1-1/2" up to 3"	154
	over 3" up to 4"	152

Specification	Thickness	$/MT
A633		
Gr. C	5/16" or less	174
	over 5/16" up to 1/2"	161
	over 1/2" up to 1"	152
	over 1" up to 1-1/2"	150
	over 1-1/2" up to 3"	152
	over 3" up to 8"	177
Gr. E	5/16" or less	193
	over 5/16" up to 1/2"	190
	over 1/2" up to 1"	171
	over 1" up to 1-1/2"	169
	over 1-1/2" up to 3"	171
	over 3" up to 8"	196
AR	-	62
AR300, 350 (Q & T Extra included)		225
A202		
Gr. A	All Thickness	130
Gr. B	All Thickness	110
A203		
Gr. A	2" or less	205
	over 2" up to 4"	210
	over 4" up to 6"	200
Gr. B	2" or less	205
	over 2" up to 6"	200
Gr. D	4" or less	285
Gr. E	4" or less	280
A204		
Gr. A	2" or less	135
	over 2" up to 6"	125
Gr. B	1" or less	135
	over 1" up to 6"	125
Gr. C	4" or less	125

Specification	Thickness	$/MT
A387		
Gr. 2	All Thickness	165
Gr. 11	All Thickness	200
Gr. 12	All Thickness	170
Gr. 21	All Thickness	375
Gr. 22	All Thickness	345
A533		
Gr. A	All Thickness	135
Gr. B	All Thickness	170
Gr. C	All Thickness	185
Gr. D	All Thickness	155
A553		
Type 1	All Thickness	740
Type 2	All Thickness	650
A8360 (Q & T Extra included)	1-1/2" or less	235
A514 (Q & T Extra included)		
Type B	5/16" or less	305
	over 5/16" up to 1/2"	270
	over 1/2" up to 1"	265
	over 1" up to 1-1/4"	260
Type F	5/16" or less	415
	over 5/16" up to 1/2"	380
	over 1/2" up to 1"	375
	over 1" up to 3"	370
	over 3" up to 4"	475
Type Z	5/16" or less	350
	over 5/16" up to 1/2"	315
	over 1/2" up to 2"	305

Specification	Thickness	$/MT
A517 (Q & T Extra included)		
Gr. B	5/16" or less	320
	over 5/16" up to 1/2"	290
	over 1/2" up to 1-1/4"	280
Gr. F	5/16" or less	335
	over 5/16" up to 1/2"	400
	over 1/2" up to 1"	395
	over 1" up to 3"	390
	over 3" up to 4"	395
	over 4" up to 8"	415
Gr. H	5/16" or less	365
	over 5/16" up to 1/2"	335
	over 1/2" up to 1"	325
	over 1" up to 2"	320
A225		
Gr. A, B	4" or less	115
A302		
Gr. A	1" or less	140
	over 1" up to 4"	130
Gr. B	1" or less	150
	over 1" up to 2"	135
A8S & A131		
Gr. A	1/2" or less	4
	over 1/2" up to 1-1/2"	10
Gr. B	1" or less	10
Gr. CS (Normalized)	1/2" or less	110
	over 1/2" up to 2"	95
Gr. D (Normalized)	1/2" or less	110
	over 1/2" up to 2"	100

Specification	Thickness	$/MT
ABS & A131 (Cont'd)		
Gr. E (Normalized)	1/2" or less	130
	over 1/2" up to 2"	120
Gr. DS (as Rolled Normalized)	1-3/8" or less	40
	over 1-3/8" up to 2"	95
Gr. AH32	1/2" or less	36
	over 1/2" up to 1-1/2"	56
	over 1-1/2" up to 2"	58
Gr. AH36	1/2" or less	44
	over 1/2" up to 1-1/2"	64
	over 1-1/2" up to 2"	66
Gr. DH32 (Killed Normalized)	1/2" or less	130
	over 1/2" up to 2"	120
Gr. DH36 (Killed Normalized)	1/2" or less	130
	over 1/2" up to 2"	120
Gr. EH32 (Killed Normalized)	1/2" or less	150
	over 1/2" up to 2"	130
Gr. EH36 (Killed Normalized)	1/2" or less	150
	over 1/2" up to 2"	130
SAE		
1345	-	70
4130	-	105
4140	-	110
4150	-	110
4340	-	215
5150	-	75
5160	-	75
6150	-	125

Specification	Thickness	$/MT
SAE (Cont'd)		
8615	-	150
8617	-	150
8620	-	135
9260	-	105
Other Specification Extra	To be specified on SSSI	

3 — OTHER EXTRAS

Description		$/MT
• Killed		20
• Fine Grain		6
• Charpy		
+40°F & up		
L		15
T		20
L & T		25
under +40°F		
L		20
T		25
L & T		30
• Normalize		70
• Quench & Temper		120
• Normalize & Temper		120
• U.S.T.		
A578 L2	(over 1/2")	40
A435, A578 L1		
(9" or higher grid)	(over 3/4")	15
(under 9" grid or 100% scanning)	(over 3/4")	25
• Checker		20
• Pickled & Oiled		
Up to 0.172" Thickness		13
Over 0.172" Thickness		20
• Others		To be specified on SSSI

(2) LENGTH

$60" \leq L \leq 168"$	15
$L < 60"$	17

(3) COATING

0.06 OZ/FT^2 on each side	+ 4
0.03 "	Base
0.01 "	- 2

(4) Chemical Treatment

Phosphated	Base
Chromated	- 2
Oiled	- 2

(5) Quality

Commercial	Base
Drawing	Subject to Negotiation
Drawing, Special Killed	"
Physical (TS, YP, HRB, etc.)	"

(6) Packing

Coil 4ST UNDER	Subject to Negotiation
Sheet 3ST UNDER	"

(7) TMW Extra 10

(8) Others Subject to Negotiation

HOT ROLLED CARBON STEEL STRIP, PRODUCED ON BAR MILLS, CUT LENGTHS

Category AISI 29

Tariff Schedule Number(s) 609.0220 6%
609.0320 8 1/2%
609.0420 9 1/2%

Base Price per Metric Ton $246

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$5
Gulf Coast	26	5	7
Atlantic Coast	29	4	7
Great Lakes	35	4	8

Insurance 1% of base price + extras + ocean freight

Extras

1. Thickness/Width

WIDTH AND THICKNESS EXTRAS
($/MT)

Thickness	Width	Extra
0.125 Inches	0.50 Inches	20
0.125 Inches	0.625 Inches	5
0.125 Inches	0.750 Inches	Base
0.125 Inches	1.000 Inches	Base
0.125 Inches	1.250 Inches	Base
0.125 Inches	1.500 Inches	Base
0.125 Inches	1.750 Inches	Base
0.125 Inches	2.000 Inches	Base

HOT ROLLED CARBON STEEL STRIP PRODUCED ON SHEET MILLS, COILS ONLY

Category AISI 29

Tariff Schedule Number(s) 609.0220 6%
609.0320 8 1/2%
609.0420 9 1/2%

Base Price per Metric Ton $231 (HOT ROLLED SHEET BASE)

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$3	$5
Gulf Coast	26	5	7
Atlantic Coast	29	4	7
Great Lakes	35	4	8

Insurance 1% of base price + extras + ocean freight

Extras

1. Width/Thickness
2. Other Extras as per Hot rolled Sheets

WIDTH/THICKNESS EXTRAS
($/MT)

Width/ Thickness (Inches)	Over 2 Inches up to 4 Inches	Over 4 Inches up to 6 Inches	Over 6 Inches up to 12 Inches
From 0.251 thru 0.3119	N.A.	20	18
From 0.230 thru 0.2509	20	20	18
From 0.180 thru 0.2299	24	20	18
From 0.121 thru 0.1799	24	20	18
From 0.081 thru 0.1209	24	20	18
From 0.061 thru 0.0709	33	31	26
From 0.0568 thru 0.0609	38	38	29
From 0.0509 thru 0.0567	38	38	29

[FR Doc. 78-8038 Filed 3-24-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 619]

ASSIGNMENT OF HEARINGS

MARCH 22, 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.

No. 36434, Petition for declaratory order and reconsideration commuter fares—Consolidated Rail Corp., New Jersey and New York, and No. 36474, Consolidated Rail Corp. and Metropolitan Transportation Authority of New York, now assigned March 27, 1978, at Goshen, N.Y., and on March 29, 1978, at Suffern, N.Y., are postponed indefinitely.

MC 77424 (Sub-No. 40), Wenham Transportation, Inc., now assigned April 18, 1978, at Columbus, Ohio, will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC 143790 (Sub-No. 1), Federal Freight System, Inc., now assigned April 19, 1978, at Columbus, Ohio, will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC 139495 (Sub-No. 258), National Carriers, Inc., now assigned April 20, 1978, at Columbus, Ohio, will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC 124947 (Sub-No. 76), Machinery Transports, Inc., now assigned April 21, 1978, at Columbus, Ohio, will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC 102616 (Sub-No. 935), Coastal Tank Lines, Inc., now assigned April 24, 1978, at Columbus, Ohio, will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC-F-13355, B & L Motor Freight, Inc.—merge—Prunty Motor Express, Inc. and MC 123255 (Sub. No. 124), B & L Motor Freight, Inc., now assigned April 26, 1978, at Columbus, Ohio, will be held in Room 235, Federal Building, 85 Marconi Boulevard.

MC 121658 (Sub-No. 9), Steve D. Thompson, is assigned for hearing May 5, 1978, at Holiday Inn, 1441 Brooks Road, Memphis, Tenn., and May 15, 1978, at Ramada Inn, 1311 U.S. Highway 165, Monroe, La.

No. MC 96610 (Sub-No. 17), Ross Neely Express, Inc., now assigned for prehearing conference on April 25, 1978, at Washington, D.C., is postponed to April 27, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124004 (Sub-No. 42), Richard Dahn, Inc., now assigned March 23, 1978, at Washington, D.C., is canceled and transfered to modified procedure.

MC 111625 (Sub-No. 24), Berman's Motor Express, Inc., now assigned April 24, 1978, at Binghamton, N.Y., will be held in Room 313, Federal Building, corner of Henry and State Streets.

No. AB (Sub-No. 5), Chesapeake & Ohio Railway Co. abandonment between Williamsburg and Elk Rapids, in Grand Traverse and Antrim Counties, Mich., No. AB 18 (Sub-No. 19), Chesapeake & Ohio Railway Co. abandonment portion Petoskey subdivision between a point near Traverse City and Bay View, in Grand Traverse, Kalkaska, Antrim, Charlevoix, and Emmet Counties, Mich., and No. AB 18 (Sub-No. 20), Chesapeake & Ohio Railway Co. abandonment portion Traverse City and Petoskey subdivisions between Manistee and Traverse City and the Northport subdivision between Traverse City and Rennies, in Manistee, Benzie, Grand Traverse and Leelanau Counties, Mich., now being assigned for continued hearing on April 24, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-9725, *Woodline Motor Freight, Inc.* v. *Arkansas Best Freight Systems, Inc.* and MC-C-9726, *Woodline Motor Freight, Inc.* v. *Ryder Truck Lines, Inc.*, are now assigned for hearing May 2, 1978 (1 day), at Little Rock, Ark., at a location to be later designated.

MC-F-13251, Chief Truck Lines, Inc.—purchase—Murphy Transportation, Inc. Charles Johnson trustee in bankruptcy and MC 43963 (Sub-No. 11), Chief Truck Lines, Inc., now being assigned for continued hearing on April 13, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-13434, Central Transfer Co.—purchase (portion)—Robert Emanuel and Margaret Emanuel, d.b.a. Emanuel's Express, and MC 1403 (Sub-No. 4), A. David Milliner, are now assigned for hearing May 8, 1978 (1 week), at Philadelphia, Pa., at a location to be later designated.

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

[FR Doc. 78-7997 Filed 3-24-78; 8:45 am]

[7035-01]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "Waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before April 17, 1978. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-6-78 (SPECIAL CERTIFICATE—WASTE PRODUCTS), filed March 10, 1978. Applicant: NIX TRANSPORTATION, INC., 335 West Queen, P.O. Box 721, Albany, OR 97321. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, OR 97210. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes transporting: *Waste or scrap paper*, for recycling or reuse, from points in WA, CA, and ID, to points in OR, in furtherance of a recognized pollution control program sponsored by Western Kraft Paper Group, a division of Willamette Industries of Albany, OR, for the purpose of recycling waste or scrap paper into usable fiber.

By the Commission.

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

[FR Doc. 799 Filed 3-24-78; 8:45 am]

[7035-01]

[Notice No. 15]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable

rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77470, filed December 20, 1977. Transferee: G.R.R. AUTO DISMANTLERS, INC., d.b.a., S. & S. AUTO DISMANTLERS, P.O. Box 9045, South Lake Tahoe, CA 95705. Transferor: Robert J. Stephens, Herbert J. Crowell and Jay C. Stephens, a partnership, d.b.a. S. & S. Auto Sales, P.O. Box 9045, South Lake Tahoe, CA 95705. Applicants' representative: Victor Alan Perry, Attorney at Law, 620 Humbolt St., Reno, NV 89509. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 124970, issued April 29, 1975, as follows: *Wrecked and disabled automobiles, trucks, and trailers,* (except trailers designed to be drawn by passenger automobiles), by truckaway methods using wrecker-type tow trucks, between points in Eldorado and Alpine Counties, CA, and Douglas County, NV. From points in Eldorado and Alpine Counties, CA to Reno, NV. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77571, filed March 7, 1978. Transferee: Robert W. Allen, d.b.a. Allen's Auto Sales & Service, 1300 West Cross Street, Baltimore, MD 21223. Transferor: Robert P. Allen, d.b.a. Allen's Auto Sales & Service, Robert W. Allen, Administrator, 1300 West Cross Street, Baltimore, MD 21223. Applicants' representative: William B. Elmer, Attorney at Law, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 123078, issued August 22, 1974, as follows: *Motor Vehicles* (including automobiles), wrecked or disabled, by standard wrecker trucks, between Baltimore, MD on the one hand and, on the other, points in DE, NJ, NY, PA, and WV; *Wrecked and disabled motor vehicles,* by use of wrecker equipment only, between Baltimore, MD, on the one hand and, on the other, points in VA and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

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

[FR Doc. 78-7998 Filed 3-24-78; 8:45 am]

[7035-01]

[Notice No. 14]

MOTOR CARRIER TRANSFER PROCEEDINGS

March 27, 1978.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77583. By application filed March 20, 1978, LONIA JERRY CATON, an individual, d.b.a. CATON VAN & STORAGE, 1930 West Winton Avenue No. 10., Hayward, CA 94545, seeks temporary authority to transfer the operating rights of David Teel, d.b.a. C.A. Buck Moving & Storage Company, 391 Foster City Boulevard, San Mateo, CA 94402, under section 210a(b). The transfer to Lonia Jerry Caton, an individual, d.b.a. Caton Van & Storage, of the operating rights of David Teel, d.b.a. C.A. Buck Moving & Storage Company, is presently pending.

By the Commission.

H. G. Homme, Jr.
Acting Secretary.

[FR Doc. 78-7999 Filed 3-24-78; 8:45 am]

[7035-01]

[Notice No. 13]

MOTOR CARRIER TRANSFER PROCEEDINGS

March 27, 1978.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77582. By application filed March 20, 1978, B & J MOVING & STORAGE CO., 1545 Independence Street, Cape Girardeau, MO 63701, seeks temporary authority to transfer the operating rights of Day Transfer Co., 1545 Independence Street, Cape Girardeau, MO 63701, under section 210a(b). The transfer to B & J Moving & Storage Co., of the operating rights of Day Transfer Co., is presently pending.

By the Commission.

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

[FR Doc. 78-8000 Filed 3-24-78; 8:45 am]

[7035-01]

[Notice No. 12]

MOTOR CARRIER TRANSFER PROCEEDINGS

March 27, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77581. By application filed March 10, 1978, ELK VALLEY MOTOR EXPRESS, INC., 1533 Hansford Street, Charleston, WV 24311, seeks temporary authority to transfer a portion of the operating rights of Automotive Merchandisers of Texas, Inc., and Ohio Merchandising Corp., 1800 Moler Street, Columbus, OH 43207, under section 210a(b). The transfer to Elk Valley Motor Express, Inc., of a portion of the operating rights of Automotive Merchandisers of Texas, Inc., and Ohio Merchandising Corp., is presently pending.

By the Commission.

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

[FR Doc. 78-8001 Filed 3-24-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

Change in Meeting

ACTION: Correction of notice of meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I), corrects a notice of meeting announced in the Federal Register on March 21, 1978 at page 11774. Prior notice indicated public meeting to be held at 2 p.m.

TIME AND DATE: 9 a.m. and 4:45 p.m. (Central Standard time) on Saturday, April 1, 1978.

PLACE: Berea Presbyterian Church, 3010 Olive Street, St. Louis, Mo.

AGENDA: (9 a.m.) Public hearing—1. "Development Strategies—Who benefits?"; (4:45 p.m.)—Business meeting—1. Hear reports from the following Task Forces:

1. Reinvestment
2. Human Services
3. Economic Development
4. Governance: Citizen Involvement and Neighborhood Empowerment
5. Legal and Structural Obstacles to Neighborhood Stability

STATUS: Open to the public.

CONTACT PERSON:

Ms. Frances Phipps, Deputy Director, telephone 202-632-5200.

Jonathan Stein,
Administrative Officer.

[FR Doc. 78-8193 Filed 3-24-78; 12:01 pm]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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Renegotiation Board	7

[6320-01]

1

[M-113, amdt. 1]

CIVIL AERONAUTICS BOARD.

NOTICE OF CHANGE OF TIME FOR THE MARCH 23, 1978 MEETING.

TIME AND DATE: 11:30 a.m., March 23, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Scheduled Meeting for March 23, 1978 as announced by M-113 on March 16, 1978.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-643-78 Filed 3-23-78; 9:08 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

[M-114]

TIME AND DATE: 11 a.m., March 22, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Air Charter Tour Operators of America and the U.S. Tour Operators Association.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On Tuesday, March 21, 1978, the Board will hear a presentation by the Air Charter Tour Operators of America and the U.S. Tour Operators Association on the problems of American tour operators.

It is likely that the presentation will point out problems on which relatively prompt Board consideration of what action, if any, might be necessary. So as not to delay Board consideration, the following Members have voted that agency business requires that the Board meet on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman Alfred E. Kahn.
Vice Chairman G. Joseph Minetti.
Member Lee R. West.
Member Richard J. O'Melia.
Member Elizabeth E. Bailey.

[S-644-78 Filed 3-23-78; 9:08 am]

[6740-02]

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 11656, published March 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 22, 1978.

CHANGE IN THE MEETING: The following item has been added.

Item No., Docket No. and Company

M-3.—CP78-123, Alcan Pipeline Co.
M-3.—CP78-124, Northern Border Pipeline Co.
M-3.—CP78-125, Pacific Gas Transmission Co.

KENNETH F. PLUMB,
Secretary.

[S-647-78 Filed 3-23-78; 2:49 pm]

[6720-01]

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: March 31, 1978, 9:30 a.m.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATIONS:

Mr. Robert Marshall 202-377-6679.

MATTERS TO BE CONSIDERED:

Branch Office Application—Home Federal Savings and Loan Association of Harlan, Harlan, Iowa.
Branch Office Application—Westchester Federal Savings and Loan Association, New Rochelle, N.Y.
Application for Permission to Organize a New Federal Savings and Loan Association—Ralph E. King, Jr., et al., Winnsboro, La.
Branch Office Application—Equitable Federal Savings and Loan Association of Fremont, Fremont, Nebr.
Branch Office Application—Security Federal Savings and Loan Association of Nashville, Nashville, Tenn.
Consideration of Revision of Federal Home Loan Bank Regulations.
Consideration of Request for Modification of Merger Conditions—Fidelity Federal Savings and Loan Association of Macon, Macon, Ga. into Fulton Federal Savings and Loan Association of Atlanta, Atlanta, Ga.
Application for Permission to Organize a New Federal Savings and Loan Association—Ira C. Hatch, Jr., et al., Sunrise, Fla.
Concurrent Consideration of Branch Office Application—Home Federal Savings and Loan Association of San Diego, San Diego, Calif.; and Central Federal Savings and Loan Association, San Diego, Calif.
Concurrent Consideration of: (1) Appointed Director, Federal Home Loan Bank of Indianapolis; and, (2) Appointed Directors, Chairman and Vice Chairman, Federal Home Loan Bank of Seattle.
Consideration of Designation of William L. McElheney as a Supervisory Agent.
Application for Modification of Conditions—Exchange of Branch Offices—Civic Federal Savings and Loan Association, San Francisco, Calif. and Glendale Federal Savings and Loan Association, Glendale, Calif.
Branch Office Application—Heritage Federal Savings and Loan Association, Huntington, N.Y.
Branch Office Application—Concordia Federal Savings and Loan Association, Evergreen Park, Ill.
Branch Office Application—First Federal Savings and Loan Association of Southeast Missouri, Cape Girardeau, Mo.
Application for Increase of Insurable Accounts (Merger); Cancellation of Membership and Insurance—Astoria Building and Loan Association, Astoria, Ill. into Home Savings and Loan Association, Galesburg, Ill.
Agency Loan Office Application—Coast Federal Savings and Loan Association, Los Angeles, Calif.
Consideration of Association Request for Extension of Time—Redding Savings and Loan Association, Redding, Calif.
Satellite Office Application—Flagler Federal Savings and Loan Association, Miami, Fla.

Application to Purchase Office Building Property—United Federal Savings and Loan Association of Waycross, Waycross, Ga.
Mobile Facility Application—Franklin??? Federal Savings and Loan Association, Columbus, Ohio.
Application for Modification of RSU Project—Florida Savings and Loan Development Corp., Orlando, Fla.
Branch Office Application—Hillsboro Federal Savings and Loan Association, Hillsboro, Tex.
Branch Office Application—First Federal Savings and Loan Association of Big Spring, Big Spring, Tex.
Application for Insurance of Accounts—United Savings Assocation, Silvis, Ill.

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board No. 142, Page Three.

Remote Service Unit Application—Baltimore Federal Savings and Loan Association, Baltimore, Md.
Branch Office Application—Security Federal Savings and Loan Association, Cleveland, Ohio.
Application for Modification of Condition of Approved Limited Facility—Tifton Federal Savings and Loan Association, Tifton, Ga.
Branch Office Application—Westchester Federal Savings and Loan Association, New Rochelle, N.Y.
Branch Office Application—First Federal Savings and Loan Association of Texarkana, Texarkana, Ark.
Application to Increase Accounts of an Insurable Type through Acquisition by Merger of Northampton Savings and Loan Association, Northampton, Pa. into Keystone Savings Association, Bethlehem, Pa.
Application for Merger; Cancellation of Membership and Insurance; Transfer of Stock—Saluda Valley Federal Savings and Loan Association, Williamston, S.C. into Home Savings and Loan Association of the Piedmont, Easley, S.C.
Limited Facility Application—Home Federal Savings Association, Algona, Iowa.
Branch Office Application—First Piedmont Federal Savings and Loan Association of Gaffney, Gaffney, S.C.
Consideration of Request for Permission to Organize a New Federal Savings and Loan Association—Thomas E. Guilbeau, et al., Lafayette, La.
Branch Office Application—Union Federal Savings and Loan Association, Los Angeles, Calif.
Application for Bank Membership and Insurance of Accounts—Peninsula Savings and Loan Association, South San Francisco, Calif.

[S-645-78 Filed 3-23-78; 11:21 am]

[7035-01]

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, March 29, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue, NW., Washington, D.C.

STATUS: Partially Open/Partially Closed Special Conference.

The open portion of the meeting will consider the following agenda:

1. Review of Household Goods Consumer Information Program (Office of Communications).
2. Report on pending Ex Parte No. MC-19 household goods carrier rulemaking proceedings (Briefing, Office of Proceedings).
3. Pooling Between Household Goods Carriers and Their Agents.
4. Report on complaints, performance reports, over-and under-estimate reports and compliance surveys of household goods carrier and on household goods freight forwarder activities (Briefing, Bureau of Operations).

The Commission voted unanimously to close a portion of the conference because it is likely to disclose investigatory records or information complied for law enforcement purposes the production of which would interfere with enforcement proceedings, and disclose information the premature disclosure of which would significantly frustrate implementation of a proposed agency action, within the meaning of 5 U.S.C. 552b(c)(7)(A) and (9)(B). The General Counsel has issued his certificate accordingly.

The item to be considered at closed session is:

1. Report on pending investigations, special investigative projects, (including antitrust implications) involving household goods carriers (Briefing, Bureau of Investigations and Enforcement).

In addition to the Commission, the following will be in attendance: General Counsel Evans, Acting Secretary Homme, Director Baldwin, Office of Communications; Director Shannon, Bureau of Investigations and Enforcement; and the following: John Moseman, Raymond Mauk, Stanley Braverman, Gary Michel and Robert Goren, all from the Bureau of Investigations and Enforcement.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone: 202-275-7252.

[S-642-78 Filed 3-23-78; 9:08 am]

[7590-01]

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, March 27, 1978 (Cancellations).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

2 P.M.

1. Discussion of Proposed Rule Implementing US/IAEA Safeguards Agreements and Subsidiary Arrangements to the US/IAEA Agreements (approx. 1½ hrs) (postponed to a date to be announced) (public meeting).
2. Discussion of Houston L & P, February 22, 1978. Motion for Commission to Order Procedure re South Texas Antitrust (approx. ½ hr) (postponed to a date to be announced) (public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

MARCH 23, 1978.

[S-646-78 Filed 3-23-78; 11:55 am]

[7910-01]

7

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 11657 March 20, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, March 28, 1978; 10 a.m.

CHANGE IN MEETING: Cancellation.

CONTACT PERSON FOR MORE INFORMATION:

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

Dated: March 22, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[FR Doc. S-648-78 Filed 3-23-78; 3:01 pm]

federal register

MONDAY, MARCH 27, 1978
PART II

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

PROPOSED U.S. NATIONAL AVIATION STANDARD FOR THE DISCRETE ADDRESS BEACON SYSTEM (DABS)

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

DISCRETE ADDRESS BEACON SYSTEM (DABS)

Notice of Proposed U.S. National Aviation Standard

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed National Aviation Standard.

SUMMARY: This action proposes a U.S. National Aviation Standard for the Discrete Address Beacon System (DABS). The standard would define the system and the performance characteristics of its components. It is intended to satisfy overall operational needs and assure compatibility with all elements of the National Airspace System (NAS). While not regulatory, the standard may provide the basis for later rule making affecting airborne navigational equipment.

DATES: Comments must be received on or before May 26, 1978.

ADDRESS: Director, Systems Research and Development Service, Attn: ARD-50, Federal Aviation Administration, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

P. D. Hodgkins, Surveillance Branch, ARD-240, Communications Division, Systems Research and Development Service, Federal Aviation Administration, 2100 Second Street SW., Washington, D.C. 20591, telephone 202-426-4085.

SUPPLEMENTARY INFORMATION:

NOTE.—This draft is issued for public comment only, conventions and formats are subject to change.

DESCRIPTION

The Discrete Address Beacon System is an important element of the Upgraded Third Generation Air Traffic Control System. It is a fully compatible evolutionary upgrading of the Air Traffic Control Radar Beacon System (ATCRBS) currently deployed. It provides the improved surveillance and data link communications required to support the automation which will be provided by the Upgraded Third Generation Air Traffic Control System and enhanced developments of future Air Traffic Control (ATC) automation. DABS has been under deployment since 1972.

DEFINITION OF U.S. NATIONAL AVIATION STANDARD

U.S. National Aviation Standards are system standards embodying descriptions of system characteristics. They are issued by the Administrator of the Federal Aviation Administration (FAA), Department of Transportation (DOT). They describe the performance characterisitics (the technical parameters, tolerances and techniques) of major elements of the system to the extent necessary to assure proper operation and interface compatibility between elements of the National Airspace System (NAS). U.S. National Aviation Standards generally are limited to cooperative air-to-ground subsystems involving government owned ground equipment and private airborne equipment. For example, the ATCRBS National standard describes those performance characteristics of the ground and airborne components necessary to assure effective operation of radar beacon carried by military and civil aircraft as effective elements of national air traffic procedures. U.S. National Aviation Standards are not equipment specifications or standards pertaining to planning, programming, component equipments, siting, installation, availability, reliability, or maintainability.

RELATIONSHIP OF U.S. NATIONAL AVIATION STANDARD TO FEDERAL AVIATION REGULATIONS

U.S. National Aviation Standards issued by the Administrator in agency orders are binding only on FAA organizational elements. They establish the technical base and description of the NAS and component subsystems. Since they are not promulgated as Federal Aviation Regulations by the rule-making process prescribed by 5 U.S.C.533 they are not regulatory standards imposing duties on the public. With respect to the public, such standards are only advisory and their issuance is not rule making. However, while they are not regulatory, U.S. National Aviation Standards may serve as the basis for subsequent rule-making actions. Because of the relationship between U.S. National Aviation Standards and possible subsequent regulatory actions, FAA publishes such standards in the FEDERAL REGISTER and solicits public comment prior to their approval by the Administrator. In addition, publication of such issuances is consistent with the public information provisions of 5 U.S.C. 552 (a)(1)(D) which requires each government agency to publish in the FEDERAL REGISTER statements of general policy.

INVITATION OF PUBLIC COMMENT

Although comments are solicited on all aspects of the draft standard, the FAA is specifically interested in comments and suggestions in two areas: (1) the cost impact of items included to improve performance in the ATCRBS mode of DABS, paragraph 2.3.1.1.1 and (2) changes in general that will minimize aoverall transponder costs.

Interested persons are invited to submit written comments on this proposed U.S. National Aviation Standard on or before May 26, 1978. Communications should be submitted in duplicate to: Director, Systems Research and Development Service, Attn: ARD-50, Federal Aviation Administration, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20591.

U.S. NATIONAL AVIATION STANDARD FOR THE DISCRETE ADDRESS BEACON SYSTEM

1. GENERAL
1.1 System Features
1.1.1 Background
1.1.1.1 The Function of DABS
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U.S. NATIONAL AVIATION STANDARD FOR THE DISCRETE ADDRESS BEACON SYSTEM

1. *General.*

1.1 *System Features.*

1.1.1 *Background.*

1.1.1.1 *The Function of DABS.* The Discrete Address Beacon System (DABS) is an improved secondary radar system with an intergral two way data link. DABS differs from ATCRBS in the manner of selecting which aircraft will respond to an interrogation. In ATCRBS, the selection is spatial; in DABS, each aircraft is assigned a unique address code. Thus, an interrogator is able to limit its interrogations to those targets for which it has surveillance responsibility, and to time the interrogations to ensure that the responses from aircraft do not overlap. In addition, the discrete address provides the basis for a ground-air-ground digital data link. The main requirements of DABS are to:

a. Support automated air traffic control (ATC) with improved surveillance and communication capability and reliability in the projected 1995 traffic environment.

b. Permit evolutionary implementation at lowest user cost.

1.1.2 *Rationale for the DABS National Standard.*

1.1.2.1 Under public law 85-726, the Federal Aviation Administration has the responsibility for the development and operation of a common system of air traffic control and navigation for both military and civil aircraft. Explicitly, the Administrator shall develop, modify, test and evaluate systems, procedures, facilities, and devices, as well as define the performance characteristics thereof, to meet the needs for safe and efficient navigation and traffic control of all civil and military aviation.

1.1.2.2 Systems selected for implementation as a result of these developments, modifications, test and evaluation efforts are described in U.S. National Aviation Standards. These are system standards embodying descriptions of system characteristics. They describe technical parameters, tolerances and techniques that ensure proper operation and compatability between elements of the National Airspace System.

1.1.2.3 Optimum performance will be obtained if these System Characteristics are met by all users of the Discrete Address Beacon System under all expected operating conditions. Consequently, it is important to define many characteristics of the airborne components used in the system.

1.2 *Coordination DABS with the Air Traffic Control Radar Beacon System (ATCRBS).*

1.2.1 *ATCRBS Compatibility.* To facilitate the transition from ATCRBS to DABS over an extended period, DABS installations, both ground and airborne, include full ATCRBS capability. DABS interrogators provide surveillance of ATCRBS-equipped aircraft, and DABS transponders are capable of replying to ATCRBS interrogators. To accomplish this dual mode operation (ATCRBS and DABS) with minimum equipment complexity, DABS operates on the same interrogation and reply frequencies as ATCRBS.

1.2.2 *Relationship Between DABS and ATCRBS National Aviation Standards.* ATCRBS-only transponders are not affected by the DABS National Aviation Standard, and the ATCRBS-mode operation of DABS transponders adheres to the ATCRBS National Aviation Standard.

1.2.3 *ATCRBS IFF XII System (AIMS) Compatability.* The DABS system has been

designed to proclude mutual interference with AIMS with specific attention to Mode 4 operations thereof.

1.3 *Scope of this Standard.* This National Standard is a description of the characteristics of the DABS System in terms of signals and formats handled and processed by all users.

1.3.1 *Items Not Covered.* This is not a per- formance standard; performance standards will be proposed based on this National Standard.

1.4 *Overall System Performance and Capabilities.*

1.4.1 *Coverage.* The DABS sensor will perform surveillance of all beacon-equipped aircraft within its line-of-site coverage airspace. The nominal range is 200 nmi, but is site adaptable to other ranges. ATCRBS-equipped aircraft will be interrogated at the minimum rate that produces an adequate number of interrogations for azimuth determination. DABS-equipped aircraft will be acquired by means of an All-Call interrogation, or by means of ground-to-ground handover. After acquisition, DABS-equipped aircraft will be interrogated with their unique address call. For both ATCRBS and DABS-equipped aircraft, azimuth will be determined by a monopulse technique. System coverage for both ATCRBS and DABS is intended to be analogous to the performance described in FAA Selection Order 1010.51A, paragraph 1.3.2.

1.4.2 *Data Link.* The DABS sensor will provide a two-way digital data link for all DABS-equipped aircraft. Messages originating on the ground will be sent to suitably equipped aircraft and appropriate acknowledgement received will be relayed to the sender. The DABS sensor will also manage the data link so that when an aircraft wishes to initiate an air-to-ground message, that message will be read out with minimum delay.

1.4.3 *Link Reliability.* High link reliability is achieved by design features intrinsic to the DABS system. Reinterrogation reduces link failure due to interference. Signal formats, DPSK on the uplink and PPM with error correction capability on the downlink, provide immunity to interference. Discrete addressing eliminates synchronous interference.

2. *System characteristics.*

2.1 *Interrogation Signal Level.* The effective radiated peak power of all interrogation pulses (ATCRBS as well as DABS) shall be as prescribed by FAA Selection Order 1010.51A, paragraph 2.8.2.1.

2.2 *Link Technical Characteristics.*

2.2.1 *Interrogation Signal Characteristics.*

2.2.1.1 *Classes of DABS Interrogations from DABS Sensors.* Two classes of DABS-type interrogations are transmitted by a DABS sensor:

a. ATCRBS/DABS All-Call interrogations.

b. DABS interrogations.

NOTE.—ATCRBS/DABS All-Call interrogations are used for surveillance of ATCRBS-equipped aircraft and for acquisition of DABS-equipped aircraft. DABS interrogations are used for surveillance and for data link communications with DABS-equipped aircraft on a sensor's surveillance roll-call; in addition, the DABS-Only All-Call may be used, if needed, for the initial acquisition of DABS aircraft without triggering replies from ATCRBS-equipped aircraft.

2.2.1.2 *Interrogation Carrier Frequency.* The carrier frequency of the main beam interrogation transmission shall be 1030±0.01 MHz. The carrier frequency of the ATCRBS SLS control pulse shall be as specified in FAA Selection Order 1010.51A, paragraph 2.1.1, U.S. National Aviation Standard for the Mark X (SIF) Air Traffic Control Radar Beacon (ATCRBS) Characteristics.

2.2.1.3 *ATCRBS/DABS All-Call Interrogations.*

2.2.1.3.1 *Structure.* An ATCRBS/DABS All-Call interrogation consists of three pulses: P_1, P_3, and P_4, as illustrated in Fig. 2.2.1-1. One or two control pulses, P_2 or P_1 and P_2, may be transmitted using a separate antenna pattern to suppress responses from aircraft in the sidelobes of the interrogator antenna.

NOTE.—The ATCRBS/DABS All-Call interrogations are similar to the corresponding ATCRBS interrogations as defined in FAA Order 1010.51A, paragraph 2.4, but with an additional pulse P_4 following P_3. ATCRBS transponders are unaffected by the presence of the P_4 pulse, and respond with normal ATCRBS replies. DABS transponders recognize the interrogation as a DABS All-Call interrogation and respond with DABS All-Call replies.

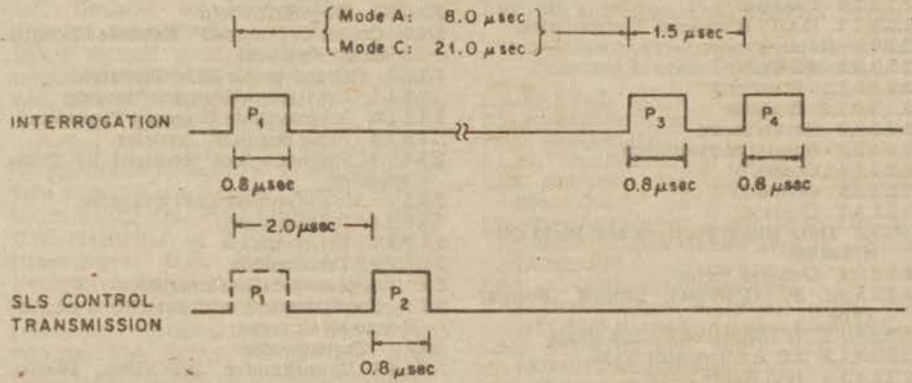

Fig. 2.2.1-1. ATCRBS/DABS All-Call Interrogations.

2.2.1.3.2 *Pulse Definitions.* Pulse width, spacing, rise and decay times, and tolerances thereon for pulses P_1, P_3 and P_2 shall be as defined in FAA Selection Order 1010.51A, paragraph 2.4.

2.2.1.3.3 *Pulse intervals.* The interval between the leading edges of P_3 and P_4 shall be 1.5±0.1 μsec.

2.2.1.3.4 *Pulse Duration.* The duration of pulse P_4 shall be 0.8±0.1 μsec.

NOTE.—DABS interrogators with omnidirectional antennas may interrogate ATCRBS targets with a modified ATCRBS/DABS All-Call interrogation in which the duration of P_4 is 1.6±0.1 μsec. It is intended that this special interrogation elicit replies only from ATCRBS transponders and that DABS transponders reject this interrogation by discriminating against long P_4 pulses.

2.2.1.3.5 *Pulse Shape.* The rise time and decay time of pulse P_4 shall be as defined in FAA Selection Order 1010.51A, paragraph 2.4 for pulses P_1, P_3, and P_2.

2.2.1.3.6 *Pulse Level, P_4.* The radiated amplitude of P_4 shall be within 1 dB of the radiated amplitude of P_1.

2.2.1.3.7 *Pulse Level, P_2, P_3.* The radiated amplitudes of P_2 and P_3 compared to P_1 shall be as defined in FAA Selection Order 1010.51A, paragraph 2.5

2.2.1.4 *DABS Interrogations.* A DABS interrogation consists of a preamble followed by a data block containing 56 or 112 data bits. The signal format is illustrated in Fig. 2.2.1-2.

2.2.1.4.1 *Preamble.* The preamble consists of a pair of pulses P_1 and P_2, nominally spaced 2 μsec leading edge to leading edge, which are both radiated in the mainbeam to intentionally suppress ATCRBS transponders which receive the interrogation. Pulse spacing, widths, and rise and decay times shall be as defined in FAA Selection Order 1010.51A, paragraphs 2.4 and 2.5 for pulses P_1 and P_2 of an ATCRBS interrogation. (Spacing: 2.0±0.15 μsec; Width: 0.8±0.1 μsec; Rise: 0.05 to 0.1 μsec; Decay: 0.05 to 0.2 μsec.)

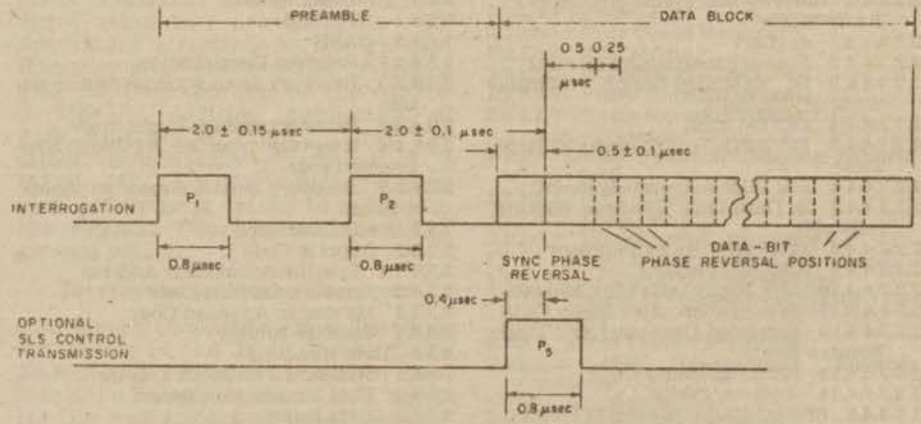

Fig. 2.2.1-2. DABS Interrogation

2.2.1.4.1 *Data Block.* The data block consists of a single RF pulse of duration 15.5±0.25 or 29.5±0.25 μsec beginning nominally 1.5 μsec after the leading edge of P_2. Data modulation is accomplished by phase reversals of the RF signal.

NOTE.—The data block RF pulse includes an additional 0.5 μsec segment at the end to assure that the trailing edge of the RF pulse does not interfere with the last bit in the data block.

2.2.1.4.3 *Data Block Shape.* The rise and decay times of the RF carrier pulse for the data block shall be as defined in FAA Selection Order 1010.51A, paragraph 2.4 for pulses P_1, P_2, and P_3 of an ATCRBS interrogation.

2.2.1.4.4 *Pulse Level.* The radiated amplitude of P_2 and the initial 1-μsec segment of the data block shall be greater than the radiated amplitude of P_1 minus 0.25 dB. The envelope amplitude variation of the data block over either a long or short DABS transmission shall not exceed 1 dB.

2.2.1.4.5 *Sync Phase Reversal.* The first phase reversal in the data block is the sync phase reversal and shall occur 2.0±0.1 μsec after the leading edge of P_2. The leading edge of the data block shall occur 0.5±0.1 μsec before the sync phase reversal.

2.2.1.4.6 *Bit Content.* Each data block includes 56 or 112 data bits transmitted at a 4- Mb/sec rate.

2.2.1.4.7 *Modulation Type.* Differential Phase Shift Keyed (DPSK) modulation is used, with a 180° phase change of the carrier at a data bit phase reversal position representing a binary one, and no phase change representing a binary zero.

2.2.1.4.8 *Phase Reversal Spacing.* Each carrier phase reversal shall occur at a time (N x 0.25)±0.02μsec (N>2) after the sync phase reversal. Thus, the first time a data bit phase reversal can occur is 0.5 ±0.02 μsec after the sync phase reversal.

2.2.1.4.9 *Phase Reversal Timing.* The time required for a phase reversal of the transmitted signal shall not be greater than 0.08 μsec as measured between the 10° and 170° points of the phase transition. The interval between the 80 percent points of the amplitude transient associated with the phase reversal shall not exceed 0.08 μsec.

2.2.1.4.10 *Tolerance.* The tolerance on the 0 or 180° phase relationship between successive chips in the DPSK signal (including the sync phase reversal) shall be ±5 degrees.

2.2.1.5 *DABS Transmit Sidelobe Suppression (SLS).* An optional control pulse P_3 may be transmitted to permit the DABS transponder to reject interrogations recieved from a sidelobe of an interrogator.

2.2.1.5.1 *Pulse Shape.* The control pulse P_3 shall be 0.8±0.1 μsec long. The leading edge of pulse P_3 shall be transmitted 0.4±0.05 μsec before the sync phase reversal. The rise time and decay time of pulse P_3 shall be as defined in FAA Selection Order 1010.51A, paragraph 2.4 for pulses P_1, P_2, and P_3 of an ATCRBS interrogation.

2.2.1.5.2 *Pulse Level.* The control pulse P_3 shall be radiated with the same antenna pattern and amplitude used for the P_2 control pulse of an ATCRBS/DABS All-Call Interrogation.

NOTE.—For an aircraft not in the main beam of the interrogator, the received P_3 pulse amplitude will exceed that of the data block. The transponder then will not detect the sync phase reversal, and thus will not attempt to decode the remainder of the data block.

2.2.1.5.3 *Pulse Carrier Frequency.* The carrier frequencies of P_3 and of the DABS data block shall not differ from each other by more than 0.1 MHz.

2.2.1.6 *DABS Sensor Emission Spectrum.* The maximum allowed emission spectrum for a DABS sensor shall be as described below:

Frequency difference (from carrier MHz)	Relative response (dB down from peak)
0	0
2.5	0
3.6	3.0
8.0	16.0
18.0	30.0
60.0	50.0

2.2.2 *Reply Signal Characteristics.*

2.2.2.1 *Classes of Replies from DABS Transponders.* Two classes of replies are generated by a DABS transponder:

a. ATCRBS replies (Mode A and Mode C).

b. DABS replies.

ATCRBS replies are generated in response to normal ATCRBS interrogations. DABS replies are generated in response to ATCRBS/DABS All-Call interrogations or DABS interrogations. DABS squitter transmissions are also generated at random intervals to allow transponders to be acquired without interrogation.

2.2.2.2 *Reply Carrier Frequency.* The carrier frequency of the reply transmission shall be 1090 ±3 MHz.

2.2.2.2.1 *DABS Transponders.* The maximum allowed emission spectrum for a DABS Transponder shall be as described below:

Frequency difference (MHz from 1090 MHz)	Relative response (dB down from peak)
3.0	0
3.75	0
4.3	3.0
10.0	20.0
26.0	40.0
81.0	60.0

2.2.2.3 *ATCRBS Reply.* In rsponse to an ATCRBS Mode A or Mode C interrogation, a DABS transponder shall generate the appropriate Mode A or Mode C ATCRBS reply, as defined in FAA Selection Order 1010.51A. Reply pulse width, spacing, rise and decay times, and tolerances thereon are as defined in FAA Selection Order 1010.51A.

2.2.2.4 *DABS Reply Structure.* A DABS reply consists of a preamble followed by a data block containing 56 or 112 data bits. The signal format is shown in Fig. 2.2.2-1.

2.2.2.4.1 *Preamble.* The preamble consists of a series of four 0.5-μsec pulses. The intervals between the leading edge of the first preamble pulse and the leading edges of the second, third, and fourth preamble pulse shall be 1.0, 3.5, and 4.5 μsec, respectively. The pulse tolerance for the leading edge of each pulse with respect to the leading edge of the first pulse of the reply shall be ±0.05 μsec.

2.2.2.4.2 *Data Block.* The data block begins 8.0 μsec following the leading edge of the first preamble pulse. Data bits are transmitted at a 1.0 Mb/sec rate using pulse position modulation (PPM) as follows: in the 1.0-μsec interval corresponding to each data bit, a 0.5 μsec pulse is transmitted in the first half of the interval if the data bit is a 1, and in the second half of the interval if the data bit is a 0.

2.2.2.4.3 *Pulse Shape.* All reply pulses shall have a pulse duration of 0.5±0.05 μsec, except that when a 1 follows a 0 in the data block, the two 0.5-μsec pulses are contiguous, resulting in a single pulse of duration 1.0±0.05 μsec. Pulse rise time shall be less than 0.1 μsec, and pulse decay time shall be less than 0.2 μsec. The pulse amplitude variation of one pulse with respect to any other pulse in a reply train shall not exceed 2 dB.

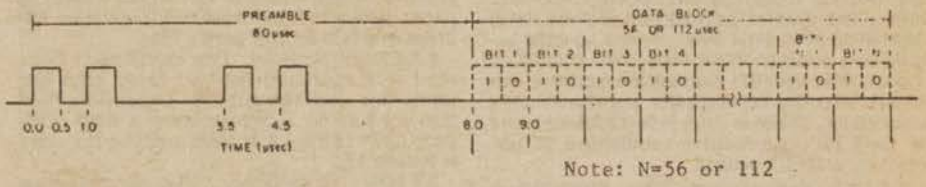

Fig. 2.2.2.-1. DABS Reply Format.

2.2.2.4.4 *Pulse Interval Tolerances.* The pulse interval tolerance for the leading edge of each pulse, with respect to the leading edge of the first preamble pulse of the reply, shall be ±0.05 μsec.

2.2.2.4.5 *Reply Delay and Jitter for DABS.* The leading edge of the first preamble pulse of the reply to a DABS interrogation shall occur at a time 128.0±0.25 μsec following the sync phase reversal of the interrogation data block. The jitter of the reply delay shall not exceed 0.05 μsec, rms.

2.2.2.4.6 *Reply Delay and Jitter for ATCRBS/DABS All-Call.* The leading edge of the first preamble pulse of the reply to an ATCRBS/DABS All-Call interrogation shall occur at a time 128.0±0.5 μsec following the leading edge of the P_3 pulse of the interrogation. The jitter of the reply delay shall not exceed 0.06 μsec, rms, for received signal levels between 3 and 50 dB above minimum triggering level.

NOTE.—A jitter of 0.06 μsec, rms is consistent with the reply jitter of ±0.1 μsec for ATCRBS replies specified in FAA Selection Order 1010.51A, paragraph 2.7.11.

2.2.3 *DABS Message Formats.*

2.2.3.1 *Interrogation and Reply Types.* There are five DABS interrogation types, and five DABS reply types, as follows:

a. Interrogation Types: DABS-Only All-Call, Surveillance (Unsynchronized or Synchronized), Comm-A, Comm-S (Synchronized), and Comm-C.

b. Reply Types: All-Call (Standard or Squitter), Surveillance (Unsynchronized, Synchronized or Special), Comm-B, Comm-T (Synchronized), and Comm-D.

In addition to the above interrogation types, a DABS Broadcast transmission is defined as a Surveillance or Comm-A interrogation with an all-zero address.

2.2.3.2 *Interrogation Types.*

2.2.3.2.1 *DABS-Only All-Call.* The DABS-Only All-Call is a short uplink interrogation which includes a data field containing a 2-bit header and a series of 30 undefined (spare) bits followed by a 24-bit parity field overlaid on the acquisition address. The first two spare bits (3,4) shall be transmitted as zeros if there is no message to be delivered by the transmission and the remaining 28 spares (bits 5-32) shall be transmitted as ones if there is no message.

NOTE.—The DABS-Only All-Call interrogation (length, 56 bits) is used for the acquisition of DABS-equipped aircraft. It is used in place of the ATCRBS/DABS All-Call interrogation when the interrogator does not desire to elicit replies from ATCRBS-equipped aircraft. When the first two bits (F and L) of the DABS data block are 1 and 0 respectively, the interrogation is uniquely defined as a DABS-Only All-Call. Bits 5-32 are transmitted as ones (when there is no message) to distinguish it from an unmodulated transmission.

2.2.3.2.1.1 *General Acquisition Address.* The general acquisition address consists of twenty-four zeros, such that the overlaid parity field is represented by its true parity value.

2.2.3.2.1.2 *Specific Acquisition Address.* The specific acquisition address consists of twenty zeros and one of 15 combinations of the last transmitted four bits of the address field (excluding the combination 0000).

NOTE.—On subtracting the parity from the address field, the transponder will find either the general acquisition address (0000 0000 0000 0000 0000 0000) or the specific acquisition address (0000 0000 0000 0000 0000 xxxx). The specific acquisition address can be set into the transponder via the specific acquisition address interface (2.3.6.1.1) and is used for incremental acquisition of aircraft by a DABS sensor.

2.2.3.2.2 *Surveillance.* The Surveillance interrogation (length, 56 bits) is the normal DABS interrogation. It is used for surveillance when no data link message is to be transmitted.

2.2.3.2.3 *Comm-A.* The Comm-A interrogation (length, 112 bits) is used for the transmission of a 56-bit ground-to-air data link message. Longer messages may be accommodated by successive interrogation-reply cycles. The Comm-A interrogation includes the bit structure of the Surveillance interrogation, and thus may be used in its place for surveillance.

2.2.3.2.4 *Comm-C.* The Comm-C interrogation (length, 112 bits) is used for the more efficient transmission of long ground-to-air data link messages. Each Comm-C interrogation includes an 80-bit message field, and up to 16 Comm-C interrogations may be transmitted in a single burst and acknowledged with a single transponder reply. A Comm-C interrogation cannot be used for a surveillance update because any response thereto do not contain altitude information.

2.2.3.2.5 *Synchronized Surveillance.* The Synchronized Surveillance interrogation is timed to allow passive air-to-air ranging between DABS-equipped aircraft. Synchronized interrogations include an EP field to indicate the relative time of transmission. The transponder replies to a Synchronized Surveillance interrogation with a Synchronized Surveillance reply (2.2.3.3.6).

2.2.3.2.6 *Comm-S.* The Comm-S interrogation (length, 112 bits) is used to transmit a specialized synchronized message to the aircraft. The first 32 bits of the Comm-S have the structure of the Synchronized Surveillance interrogation while the message field (SF) in bits 33 through 88 contains additional data. The transponder replies to a Comm-S interrogation with a Comm-T reply (2.2.3.3.7).

2.2.3.2.7 *DABS Broadcast Transmission.* The DABS interrogation formats can also be used in a non selective mode to broadcast data to DABS-equipped aircraft. Upon decoding a Surveillance or Comm-A interrogation with an address of all zeros, the transponder transfers the contents of the uplink data block to the appropriate display or message interface, but does neither reply to this interrogation nor respond to the control fields therein.

2.2.3.3 *Reply Types.*

2.2.3.3.1 *All-Call.*

2.2.3.3.1.1 *Standard.* The Standard All-Call reply (length, 56 bits) is used in response to an ATCRBS/DABS All-Call or a DABS-Only All-Call interrogation.

NOTE.—Its function is to inform the interrogator of the presence of a DABS-equipped aircraft within its area of coverage. It includes the aircraft's discrete 24-bit address code transmitted as part of its data field so that the interrogator can add the aircraft to its DABS roll-call and discretely address subsequent interrogations to the aircraft. In addition, it includes a Capability (CA) field to designate the data link input/output capability of the aircraft. The All-Call reply is parity protected, but does not include an address overlaid on the parity bits.

2.2.3.3.1.2 *Squitter.* The Squitter is identical to a Standard All-Call reply with the exception that the All-Call Capability field (see 2.2.3.4.2.1) is replaced by a 6-bit Altitude (AT) (2.2.3.4.2.2) field and the RT code is binary 11.

2.2.3.3.2 *Surveillance.* The Surveillance reply (length, 56 bits) is the normal DABS reply when the air-to-ground data-link transmission is not required.

NOTE.—This reply can contain, in a special field, either the aircraft's pressure altitude encoded as in ATCRBS Mode C replies or the ATCRBS identity (4096) code. The choice is commanded by the interrogator and normally the interrogator's transmission requests altitude information. The aircraft can signal to the interrogator that 4096 readout is desired and on receipt of this signal the interrogator can sample the 4096 code.

2.2.3.3.3 *Special Surveillance.* The Special Surveillance reply is a type of (Unsynchronized) Surveillance reply in which all class X (2.2.3.4) data fields are available as special data bits.

2.2.3.3.4 *Comm-B.* The Comm-B reply (length, 112 bits) is used for the transmission of an air-to-ground data link message. The Comm-B reply includes the bit pattern of the (Unsynchronized) Surveillance reply, and thus may be used in its place for a surveillance update.

NOTE.—Comm-B transmissions may be squittered by ground transponders. Special addresses will be reserved for these transponders (see 2.2.3.4.4.10).

2.2.3.3.5 *Comm-D.* The Comm-D reply (length, 112 bits) is used for the efficient transmission of long air-to-ground data link messages. Each Comm-D reply includes an 80-bit message field; and up to 16 Comm-D replies may be transmitted as a single long response, and acknowledged with a single interrogation.

2.2.3.3.6 *Synchronized Surveillance.* The Synchronized Surveillance reply contains a replica of the timing field (EP) of the corresponding synchronous interrogation.

2.2.3.3.7 *Comm-T.* The Comm-T reply (length, 112 bits) is used for the transmission of a synchronized data link message. The transponder generates this reply on receipt of a Comm-S interrogation.

2.2.3.4 *Data Block Formats and Field Classification.* The data block formats for each interrogation and reply type are shown in Fig. 2.2.3-1. Table 2.2.3-1 lists for each field its location in either interrogation or reply together with the field classification and the descriptive paragraph within this standard. A detailed description of the use of the control fields for implementing the extended length message functions is included in 2.2.5. The fields defined in these data blocks are divided into six types:

a. General Fields (2.2.3.4.1).

b. Standard All-Call and Squitter Reply Fields (2.2.3.4.2).

c. Surveillance/Comm-A/Comm-S Interrogation Fields (2.2.3.4.3).

d. Surveillance/Comm-B/Comm-T Reply Fields (2.2.3.4.4).

e. Special Comm-C/Comm-D Fields (2.2.3.4.5).

f. Special Surveillance Reply Fields (2.2.3.4.6).

The fields are further classified according to their effect on transponder operation; there are four classes:

1. Class I fields affect transponder operation directly, or are affected by the transponder.

2. Class IE fields are class I only when ELM capability is provided in the transponder.

3. Class IS fields apply only during synchronous operation.

4. Class X fields pass through the transponder in either direction and do not affect transponder operation nor are they affected by it. When ELM and/or synchronous operation are not employed, the IE and IS fields become class X.

2.2.3.4.1 *General Fields.*

2.2.3.4.1.1 *F: (Format), Uplink Format Type.* This is a class I field. The first bit of the uplink data block designates the format type transmitted:

F Bit, and Uplink Format Type

0—Normal (surveillance, Comm-A, Comm-S formats).

1—Special (DABS-only All-Call, Comm-C formats).

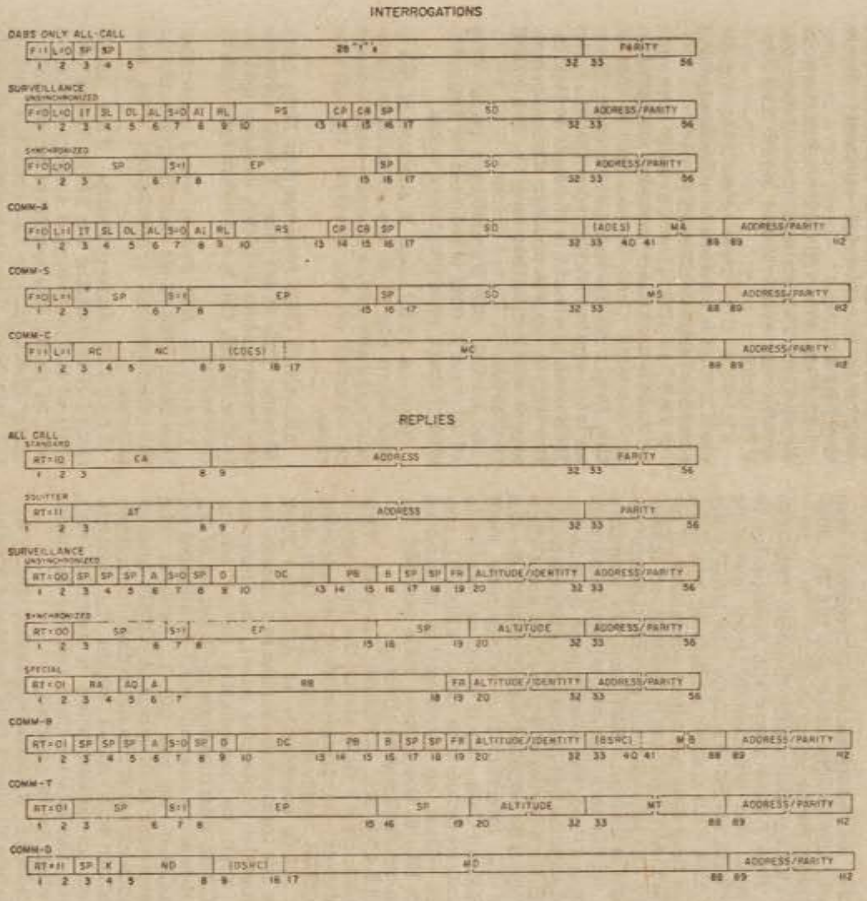

Fig. 2.2.3-1. DABS Interrogation and Reply Data Formats.

Table 2.2.3-1. Field Abbreviations.

Abbrev.	Name	Bit Number Interrog.	Bit Number Reply	Class	Reference Paragraph
A	Alert	-	6	I	2.2.3.4.4.1
ADES	Message Type/Destination	33-40	-	X	2.2.3.4.3.12
-	Address	-	9-32	I	2.2.3.4.2.3
-	Address/Parity	33-56,89-112		I	2.2.3.4.3.14
-	Address/Parity	33-56,89-112		I	2.2.3.4.4.14
AI	Altitude/Identity Flag	8	-	I	2.2.3.4.3.5
AL	ATCRBS Lockout	6	-	I	2.2.3.4.3.3
-	Altitude/Identity Field	-	20-32	I	2.2.3.4.4.9
AQ	Acquisition Flag	-	5	I	2.2.3.4.6.1
AT	Truncated Altitude	-	3-8	I	2.2.3.4.2.2
B	Comm-B Message Waiting	-	16	X	2.2.3.4.4.7
BSRC	Message Type/Source	-	33-40	X	2.2.3.4.4.10
CA	Capability	-	3-8	X	2.2.3.4.2.1
CB	Clear Comm-B	15	-	X	2.2.3.4.3.10
CDES	Message Type/Destination	9-16	-	IE	2.2.3.4.5.2
CP	Clear PB	14	-	X	2.2.3.4.3.9
D	Comm-D Message Waiting	-	9	IE	2.2.3.4.4.3
DC	Length of Reply ELM	-	10-13	IE	2.2.3.4.4.4
DL	DABS Lockout	5	-	I	2.2.3.4.3.2
DSRC	Message Type/Source	-	9-16	IE	2.2.3.4.5.3
EP	Synchronous Time	8-15	-	IS	2.2.3.4.3.8
EP	Synchronous Time	-	8-15	IS	2.2.3.4.4.5
F	Format Type	1	-	I	2.2.3.4.1.1
FR	Flight Rules Indicator	-	19	X	2.2.3.4.4.8
IT	Interrogator Type	3	-	I	2.2.3.4.1.3
K	ELM Control Indicator	-	4	IE	2.2.3.4.5.3
L	Data-Block Length	2	-	I	2.2.3.4.1.2
MA	Interrogation Data	33-88	-	X	2.2.3.4.3.12
MB	Reply Data	-	33-88	X	2.2.3.4.4.10
MC	Interrogation ELM Segment	9-88	-	IE	2.2.3.4.5.2
MD	Reply ELM Segment	-	9-88	IE	2.2.3.4.5.3
MS	Synchr Interrogation Data	33-88	-	IS	2.2.3.4.3.13
MX	Maximum Airspeed	-	11-13	I	2.2.3.4.6.2
MT	Synchronized Reply Data	-	33-88	IS	2.2.3.4.4.11
NC	Interrog ELM Segment No	5-8	-	IE	2.2.3.4.5.2
ND	Reply ELM Segment No	-	5-8	IE	2.2.3.4.5.3
-	Parity	33-56	-	I	2.2.3.2.1
-	Parity	-	33-56	I	2.2.3.4.2.4
PB	Pilot Acknowledgement	-	14-15	X	2.2.3.4.4.6
RA&RB	Special Surveillance Data	-	3-4,7-18	X	2.2.3.4.6.3
RC	Reply Type for Comm-C	3-4	-	IE	2.2.3.4.5.1
RL	Reply Length	9	-	I	2.2.3.4.3.6
RS	Reply Selector	10-13	-	I	2.2.3.4.3.7
RT	Reply Type	-	1-2	I	2.2.3.4.1.4
S	Synchronization Indicator	7	-	I	2.2.3.4.3.4
S	Synchronization Indicator	-	7	I	2.2.3.4.4.2
SD	Surveillance Data	17-32	-	X	2.2.3.4.3.11
SL	Squitter Lockout	4	-	I	2.2.3.4.3.1
SP	Spare	3,4,16	3-5,8,17-18	X	-
SR	Segment Request	9-24	-	IE	2.2.3.4.5.2
TA	Transponder Technical Acknowledgement	-	9-24	IE	2.2.3.4.5.3

2.2.3.4.1.2 *L: Length of Uplink Block.* This is a class I field. The second bit of the uplink data block designates the block length transmitted:

L Bit, and Length

0—56 bits.
1—112 bits.

2.2.3.4.1.3 *IT: Interrogator Type.* This one-bit, class I field designates whether the interrogation is transmitted from a standard (IT=1) or auxiliary (IT=0) interrogator.

NOTE.—A standard interrogator is defined as a DABS sensor with a directional antenna performing normal ATC surveillance and communications, while an auxiliary interrogator is an omnidirectional air-to-air or ground-to-air interrogator.

2.2.3.4.1.4 *RT: Reply Type.* This two-bit, class I, field designates the format of the DABS reply as follows:

RT, and Reply Type

0 0—Surveillance.
0 1—Comm-B, Comm-T, or Special Surveillance.
1 0—Standard All-Call.
1 1—Comm-D or Squitter.

NOTE.—The 01 and 11 codes are each used to designate more than one reply format. This lack of uniquencess does not result in ambiguity because the reply length and the Synchronization indicator S (2.2.3.4.4.2) further define the reply type. The RT field is not required to indicate to the decoder the length of the reply. The RT field is used primarily for distinguishing between Squitters and Standard All-Call replies.

2.2.3.4.2 *Standard All-Call and Squitter Reply Fields.*

2.2.3.4.2.1 *CA: Capability.* This six-bit field is class X, except for bit No. 8 which is class IE. Bits 3 through 7 are to be assigned to specific I/O capabilities and when set to one indicate the presence of such devices in the aircraft's installation. Bit 8 when set equal one designates that the installation is equipped with extended capability reporting (2.2.3.4.4.12).

2.2.3.4.2.2. *AT: Altitude, Truncated for Squitter Transmissions.* This is a class I field. The special 6-bit altitude code is a truncated version of the full ATCRBS Mode C altitude code and provides digitized altitude in 1000-ft increments quantized to ±500 feet from −750 feet to +62,250 feet, as follows:

Bit Number: / Pulse Position:	3 4 5 6 7 8 A_1 A_2 A_4 B_1 B_2 D_4	Altitude Range (feet)	Average Altitude (feet)
Minimum Altitude	0 0 0 0 0 0	−1250 to −250	−750
First step	0 0 0 0 1 0	−250 to +750	250
Second step	0 0 0 1 1 0	+750 to +1750	1250
.			
.			
.			
Maximum altitude	0 0 0 0 0 1	+61750 to +62750	62250

NOTE.—Because of the altitude digitizer coding, an aircraft at an altitude above 62,750 ft will squitter a code which will indicate an altitude below 62,750 ft. However, the AT code is intended only to provide a preliminary indication of altitude to allow minimization of acquisition interrogation rates in high aircraft-population density airspace. After the target is acquired by a discrete interrogation, the full altitude code will be available. Since the aircraft population density above 62,750 ft will always be relatively low, it is not necessary to increase the unambiguous range of the AT code to provide for higher altitudes.

2.2.3.4.2.3 *Address.* This 24-bit, class I field contains the aircraft's discrete address code.

2.2.3.4.2.4 *Parity.* This 24-bit, class I field contains 24 parity check bits generated by applying a parity check code to the preceding bits in the data block. The algorithms for generating the parity check bits are described in 2.2.4.

2.2.3.4.3 *Surveillance/Comm-A/Comm-S Interrogation Fields.*

2.2.3.4.3.1 *SL: Squitter Lockout.* This one-bit class I field allows the interrogator to prevent the transponder from transmitting Squitters and from accepting auxiliary discrete address interrogations (i.e., interrogations with IT=0; see 2.2.3.4.1.3). Each time the transponder replies to a discrete interrogation containing SL=1, the transponder shall be immediately locked out to Squitters and auxiliary discrete interrogations for a period of T_{SL} seconds and a time-out shall be initiated (or reinitiated) for the full T_{SL} interval. The transponder shall generate Squitters and accept auxiliary discrete interrogations only if it has not replied to an interrogation with SL=1 within T_{SL} seconds. When an interrogation is received with SL=0, the lockout state and the T_{SL} time-out shall not be affected.

2.2.3.4.3.2 *DL: DABS Lockout.* This one-bit, class I field allows the interrogator to prevent the transponder from accepting ATCRBS/DABS All-Calls and DABS-Only All-Calls with specific acquisition addresses. (This field does not affect acceptance of ordinary ATCRBS interrogations or DABS-Only All-Calls with the general (all-zero) acquisition address.) Each time the transponder replies to a discrete interrogation containing DL=1, the transponder shall be immediately locked out to the appropriate All-Calls for a period of T_{DL} seconds and a time-out shall be initiated (or reinitiated) for the full T_{DL} interval. The transponder shall accept All-Calls only if it has not replied to an interrogation with DL=1 within T_{DL} seconds. When an interrogation is received with DL=0. the lockout state and the T_{DL} time-out shall not be affected.

2.2.3.4.3.3 *AL: ATCRBS Lockout.* This one-bit, class I field allows the interrogator to prevent the transponder from accepting ATCRBS interrogations. (This field does not affect acceptance of All-Calls.) Each time the transponder replies to a discrete interrogation containing AL=1, the transponder shall be immediately locked out to ATCRBS interrogations for a period of T_{AL} seconds and a time-out shall be initiated (or reinitiated) for the full T_{AL} interval. The transponder shall accept ATCRBS interrogations only if it has not replied to an interrogation with AL=1 within T_{AL} seconds. When an interrogation is received with AL=0, the lockout state and the T_{AL} time-out shall not be affected.

2.2.3.4.3.4 *S: Synchronization Indicator.* This one-bit class I field designates whether or not the interrogation is synchronized, i.e., timed such that the resulting reply occurs at a known time. A one in this field indicates that the interrogation is synchronized and requires that bits 8-15 be interpreted as EP (see 2.2.3.4.3.8).

2.2.3.4.3.5 *AI: Altitude/Identity Designator.* This one-bit class I field is used to designate whether the reply is to contain the pressure altitude code or the ATCRBS identity code in its Altitude/Identity field. A one shall be used to request transmission of the ATCRBS identity code.

2.2.3.4.3.6 *RL: Reply Length.* This one-bit class I field is used in interrogations to designate the reply type (length) as follows:

RL Bit, and Reply Type

0—Surveillance (56 bits)
1—Comm-B (112 bits)

If the RL bit is a one, the transponder shall transmit a Comm-B reply regardless of whether or not there is a Comm-B device attached. The RL bit also determines the definition of the RS code (see 2.2.3.4.3.7).

2.2.3.4.3.7 *RS: Reply Selector.* This four-bit class I field is used in conjunction with the RL code in unsynchronous interrogations to specify the format and source of data to be transmitted in DABS replies. When an interrogation is received with S=0, RL=0, and RS=0000, a Surveillance reply shall be transmitted. When S=0, RL=0 and RS=0000, a Special Surveillance reply shall be transmitted. (Particular Special Surveillance reply codes are specified in 2.2.3.4.6.) When RL=1, the RS field specifies the source of the MB data in the Comm-B reply as follows: RS=0000 designates a message of unknown source announced by transmission of the B-bit in a previous reply. RS=0001 designates an extended capability report (see 2.2.3.4.4.12).

2.2.3.4.3.8 *EP (EPOCH): Synchronous Reply Time.* This eight-bit class IS field designates the synchronized reply time (see 2.2.3.4.4.5).

2.2.3.4.3.9 *CP: Clear PB.* This one-bit class X field is reserved to acknowledge and reset pilot acknowledgments.

2.2.3.4.3.10 *CB: Clear Comm-B.* This one-bit field is used to acknowledge receipt of an air-to-ground Comm-B message. A one in this field indicates acknowledgment. When an interrogation is received with CB=1, the B bit shall be cleared in the reply to that interrogation unless another Comm-B message is waiting; in that case, the B bit shall remain set.

2.2.3.4.3.11 *SD: Surveillance Data.* This 16-bit class X field is reserved for transmission of short, specialized data words.

NOTE.—A 12-bit class X subfield of SD is used when bits 17-20 are all zeros to transmit to the aircraft its true corrected altitude as reported on the previous transponder reply.

2.2.3.4.3.12 *MA: Interrogation Data Link Message.* This 56-bit class X field contains the interrogation data-link message and includes ADES, the MA message type and/or destination.

2.2.3.4.3.13 *MS: Synchronized Interrogation Data.* This 56 bit class IS field contains the interrogation synchronized data link message.

2.2.3.4.3.14 *Address/Parity.* This 24-bit class I field contains the 24-bit discrete address of the interrogated aircraft combined with 24 parity bits generated by applying a parity check code to the preceding bits in the data block. The algorithms for generat-

ing the parity check bits and their combination with the address code are described in 2.2.4 (also see 2.2.3.4.4.14).

2.2.3.4.4 *Surveillance/Comm-B/Comm-T Reply Fields.*

2.2.3.4.4.1 *A: Alert.* This one-bit class I field alerts the sensor to changes in the ATCRBS identity (4096) code setting and to emergencies. The A bit shall be automatically set each time the 4096 code setting is changed. Upon receipt of the next DABS Surveillance or Comm-A interrogation, the transponder shall reply with A=1. The A bit shall be reset to zero in a reply containing the 4096 code transmitted in response to an interrogation with IT=1 and AI=1, with the following exception: the transponder shall transmit the A bit continuously when the 4096 code indicates an emergency condition (7700 or 7600), and shall not be reset to zero upon receipt of AI=1 from the ground.

2.2.3.4.4.2 *S: Synchronization Indicator.* This one-bit class IS field echoes the S bit of the corresponding interrogation (see 2.2.3.4.3.4), indicating (by S=1) that the reply is synchronized.

2.2.3.4.4.3 *D: Extended-Length "Message Waiting" Indicator.* This one-bit class IE field designates to the interrogator that the transponder has an extended-length message waiting to be transmitted. A one in this field indicates the presence of such a message.

2.2.3.4.4.4 *DC: D-Count.* This four-bit class IE field is used to indicate the length of an extended-length message waiting to be sent. The four-bit binary integer in DC is one less than the number of segments in the extended-length message. The first bit transmitted in this field shall be the most significant bit.

2.2.3.4.4.5 *EP: EPOCH, Synchronous Reply Time.* This eight-bit class IS field repeats, in a synchronized reply, the contents of the EP field in the corresponding synchronized interrogation (see 2.2.3.4.3.8).

2.2.3.4.4.6 *PB: Pilot Acknowledgement.* This two-bit class X field is reserved for a pilot acknowledgement code.

2.2.3.4.4.7 *B: Data Link "Message Waiting" Indicator.* This class X field is reserved for designating to the interrogator that the aircraft has a Comm-B message waiting to be transmitted.

2.2.3.4.4.8 *FR: Flight Rules Indicator.* This one-bit class X field is reserved for indicating whether the aircraft is operating under visual or instrument flight rules.

2.2.3.4.4.9 *Altitude/Identity.* This 13-bit class I field contains the ATCRBS Mode A identity code or Mode C altitude code (including the X bit), as requested by the AI field in the corresponding interrogation. The sequence of the code pulses shall be as specified in FAA Selection Order 1010.51A, paragraph 2.6.2.

2.2.3.4.4.10 *MB: Reply Data Link Message.* This 56-bit class X field contains the data link message and includes BSRC, the MB message type and/or source. If a Comm-B reply is transmitted for which no data are available, the MB field shall contain all zeros.

NOTE.—The BSRC field may be used to identify ground transponders emitting Comm-B squitter transmissions (see 2.2.3.3.4).

2.2.3.4.4.11 *MT: Synchronized Reply Data.* This 56-bit class IS field contains the synchronized reply data. If a Comm-T reply is transmitted for which the transponder and/or its peripherals cannot supply data, the MT field shall contain all zeros.

2.2.3.4.4.12 *Extended Capability and Flight Number Reply.* In response to a correctly addressed interrogation with RL=1 and RS=0001 (see 2.2.3.4.3.7), the transponder shall transmit a Comm-B reply whose MB field (class X) is reserved for extended capability and aircraft flight number codes. The specific codes are not yet defined, except as indicated in 2.2.3.4.4.13.

2.2.3.4.4.13 *ELM Capability Code.* If the transponder is ELM equipped and has an operational ELM input/output device, bit position 41 shall be transmitted as a one to indicate ELM capability in response to an interrogation with RL=1 and RS=0001. All remaining bits of the transmitted MB class X field shall be zeros unless ones are automatically entered in preassigned bit positions by I/O devices.

2.2.3.4.4.14 *Address/Parity.* This 24-bit class I field contains the 24-bit discrete address of the replying aircraft combined with 24 parity check bits generated by applying a parity check code to the preceding bits in the data block. The algorithms for generating the parity check bits and their combination with the address code are described in 2.2.4.

2.2.3.4.5 *Special Comm-C/Comm-D Fields.* All fields described in this section are class IE. In each numerical field the first bit transmitted shall be most significant bit.

2.2.3.4.5.1 *RC: Reply Type for Comm-C Interrogations.* This special two-bit reply type and control field is used in conjunction with an extended-length message transmission. The RC codes are defined in Table 2.2.3-2.

2.2.3.4.5.2 *NC and MC.* Respectively, these four-bit segment number and 80-bit message fields are included in Comm-C transmissions. The interpretation of these fields is determined by the RC code, as defined in Table 2.2.3-2.

2.2.3.4.5.3 *K, ND, MD (including TA).* Respectively, these 1-bit, 4-bit and 80-bit, (including the 16 bit TA) Comm-D fields are used for extended-length message transfer as follows:

K Bit, ND Bits and MD Bits

0 segment number of message segment in MD, 80-bit segment of reply, extended-length message (the zeroth segment includes DSRC, the MD message type and/or source).

1 not used (all zeros), 16-bit cumulative transponder technical acknowledgment (TA) of interrogation extended-length message (bit positions 9 to 24).

If the interrogation transmission requests a Comm-D reply and the transponder is ELM-equipped, the transponder shall transmit a Comm-D reply regardless of whether or not there are ELM data available. If a Comm-D reply is transmitted for which the transponder and/or the ELM device cannot supply data, the MD field shall contain all zeros. If the interrogation transmission requests a Comm-D reply from a transponder which is not ELM-equipped, the transponder shall not reply.

2.2.3.4.6 *Special Surveillance Reply Fields.* Upon receipt of an interrogation with S=0, RL=0 and RS=0000, the transponder shall transmit a Special Surveillance reply including the following class I internally generated fields to assure cooperation with air-to-air auxiliary interrogators.

2.2.3.4.6.1 *AQ: Acquisition Flag.* Upon receipt of an interrogation with RL=0 and RS=xxix (where x designates either a one or a zero), bit 5 (AQ) of the Special Surveillance reply shall be transmitted as a one, indicating an acquisition reply. When RL=0 and RS=xx0x, but RS=0000, bit 5 shall be transmitted as a zero, indicating a roll call reply.

2.2.3.4.6.2 *MX: Maximum Airspeed Field.* On receipt of an interrogation with RL=0 and RS=0010, bit positions 11 to 13 (located in the RB field) of the reply shall contain the maximum airspeed code for the aircraft. MX indicates the maximum cruising airspeed of the aircraft in which the transponder is installed. The coding of this field is as follows:

Table 2.2.3-2. Definition of Comm-C Fields.

RC	NC	MC	Reply	Function of Comm-C Transmission
0 0	0 0 0 1 to 1 1 1 1	Initial 80-bit Message Segment	No Reply	Contains highest-number segment of uplink ELM (includes CDES, the MC message type and/or destination) and indicates number of segments to follow
0 1	0 0 0 1 to 1 1 1 0	Intermediate 80-bit Message Segment	No Reply	Contains an intermediate segment of an uplink ELM and its segment number
1 0	0 0 0 0 to 1 1 1 0	Final 80-bit Message Segment	Comm-D with K=1 and TA in MD	Contains last segment of uplink ELM and requests cumulative Transponder Technical Acknowledgement (TA)
1 1	0 0 0 0	Segment Request (SR) Field (16 bits)	Multiple Comm-D transmissions	Specifies which downlink ELM segments the transponder should transmit
1 1	0 0 0 1	Bit 9 (first bit of MC) = 1, others = 0	Single Comm-D, contents arbitrary	Concludes an uplink ELM transaction
1 1	0 0 1 0	Bit 9 (first bit of MC) = 1, others = 0	Single Comm-D, contents arbitrary	Concludes a downlink ELM transaction
1 1	0 0 1 1 to 1 1 1 1	---	---	Undefined

MX Bit No. 11 12 13	Maximum Airspeed
0 0 0	No input
0 0 1	Not yet defined
0 1 0	
0 1 1	
1 0 0	
1 0 1	
1 1 0	
1 1 1	Squitters inhibited

The MX=111 code shall be automatically set whenever the Squitter Inhibit interface (see 2.3.6.4) is activated.

NOTE.—This airspeed information is used in scheduling reacquisition interrogations if the transponder is outside the range of interest of the auxiliary interrogator. The absence of an airspeed code results in a default to the all-zeros code. The Squitter Inhibit interface may be used to encode all ones in this field when the aircraft is on the ground so that the aircraft may be so identified.

2.2.3.4.6.3 *RA and RB: Special Surveillance Reply Data.* Bits 3, 4, and 7-18 of the Special Surveillance reply, with the exception of the MX code bits (11-13) form a class X field, and shall be obtained from the digital interface (see 2.3.1.2) and shall not be acted upon by the transponder. In the absence of inputs from the interface, all externally-derived bits shall be transmitted as zeros.

2.2.4 *Error Protection.*

2.2.4.1 *Technique.* Parity check coding is used on DABS interrogations and replies to provide protection against the occurrence of errors.

2.2.4.1.1 *Parity Check Sequence.* A sequence of 24 parity check bits is generated by a code described in 2.2.4.1.2 and is incorporated into the field formed by the last 24 bits of any DABS transmission. In DABS-Only All-Call interrogations, in All-Call replies and in Squitters this sequence of 24 parity check bits forms the parity check field directly. In all other DABS transmissions the 24 parity check bits are combined with the discrete address as described in 2.2.4.3. The combination of discrete address and parity check bits then forms the Address/Parity field.

2.2.4.1.2 *Parity Check Sequence Generation.* The sequence of 24 parity bits (P_1, P_2, . . . P_{24}) is generated from the sequence of information bits m_1, m_2 . . . m_k) as they are shown in Fig. 2.2.3-1 where k is 32 or 88 for short or long transmissions respectively. This is done by means of a code which is generated by the polynomial

$$G(x) = \sum_{i=0}^{24} g_i x^i$$

where $g_i = \begin{cases} 1 \text{ for } i = 0, 3, 10, \text{ and } 12 \text{ through } 24 \\ 0 \text{ otherwise} \end{cases}$

When by the application of binary polynomial algebra the above G(x) is divided into the information sequence expressed as

$$M(x)=m_k+m_{k-1}x+m_{k-2}x^2+ \ldots +m_1x^{k-1}$$

the result will be a quotient and a remainder R(x) of degree <24. The bit sequence formed by this remainder represents the parity check sequence. Parity bit P_i, for any i from 1 to 24, is the coefficient of x^{24-i} in R(x).

2.2.4.2 *Parity Field Generation.* The parity check bits described in 2.2.4.1.2 will be transmitted as the last 24 bits of the DABS transmission in the sequence

$P_1, P_2 \ldots P_{24}$.

2.2.4.3 *Address/Parity Field Generation.* The address is formed by a sequence of 24 bits, (a_1, a_2 . . . a_{24}) where a_i is the bit transmitted first in an All-Call reply. This address sequence is used in the downlink Address/Parity field generation, while a modified form of this sequence (b_1, b_2 . . . b_{24}) is required for uplink Address/Parity field generation.

Bit b_i is the coefficient of x^{i-1} in the polynomial H(x)A(x), where

$$A(x)=a_1+a_2x+a_3x^2+ \ldots +a_{24}x^{23}$$

and

$$H(x) = \sum_{i=0}^{24} g_i x^{24-i}$$

The sequence of bits transmitted in the Address/Parity field is

$t_{k+1}, t_{k+2} \ldots t_{k+24}$

if the bits are numbered as in Fig. 2.2.3.-1.

2.2.4.3.1 *Uplink Field.* In uplink transmissions

$t_{k+i}=b_i + p_i$

where " + " prescribes modulo-2 addition.

2.2.4.3.2 *Downlink Field.* In downlink transmissions.

$t_{k+i}=a_i \oplus p_i$

where "⊕" prescribes modulo-2 addition.

2.2.5 *Comm-C/Comm-D Extended-Length Message Protocol.* The extended-length message (ELM) protocol provides for efficient transmission of long data link messages by permitting the grouping of up to 16 message segments into a single entity which can be acknowledged by a single reply. Each single segment is included in a Comm-C or Comm-D transmission. (The limit of 16 segments refers solely to the manner in which the message is transferred over the link. Longer messages can be accommodated through the use of message continuation indicators within the text of the ELM.)

2.2.5.1 *Ground-to-Air ELM Transfer.* Ground-to-air extended-length messages are transmitted using the Comm-C format with three different reply type codes (RC=00, 01 and 10). The three reply type codes designate an initializing segment, intermediate segments and a final segment. The minimum length of a ground-to-air ELM is two segments. The transfer of all segments may take place without intervening replies. Comm-C transmissions shall follow each other in intervals of no less than 50 μsec. (This minimum spacing is required to permit the resuppression of ATCRBS transponders.)

2.2.5.1.1 *Initializing Segment Transfer.* The ELM transactions for an N-segment message (segment numbers 0 through N-1) is initiated by a Comm-C interrogation with RC=00. The transponder does not reply. Receipt of this interrogation (in effect a "dial up") causes the airborne ELM equipment to prepare for a new ELM transfer. Also delivered in the initial call is the text of the final message segment in MC, and its segment number (N-1) in the NC field.

NOTE.—This "last segment first" protocol is used to inform the transponder of the length of the message. If the ELM processor fails to receive an initializing segment, it may either ignore or store the data content of all further segments of the same message since the interrogator will retransmit the entire message (see 2.2.5.1.4), initializing segment and all other segments, without change.

2.2.5.1.2. *Intermediate Segment Transfers.* Message delivery proceeds with the transmission of intermediate segments (any sequence of N-2 segments chosen from segments N-2 through 1) via Comm-C interrogations with RC=01, again triggering no replies. Each message segment is identified with its segment number in the NC field. The ELM processor stores each segment in the appropriate storage location based upon this number. In this way, the message processor reassembles the message, and its bookkeeping function keeps track of which segments have been received.

NOTE.—Intermediate segments may be delivered in any order, once the ELM processor has been initialized with segment N-1. If the entire message consists of only two segments, there will be no intermediate transfers.

2.2.5.1.3 *Final Segment Transfer.* The interrogator transmits the final segment of a Comm-C interrogation with RC=10. Its segment number (any number from 0 to N-2) is in NC, and the text is transmitted in MC. This RC code elicits a Comm-D reply with K=1 and a cumulative Transponder Technical Acknowledgement in the MD field. The cumulative Transponder Technical Acknowledgement (TA) consists of a bit string (maximum length 16 bits) which indicates which segments of the ELM have been received. The first bit represents the state of the first (N=0) segment, etc., with the states defined as: 1=segment received, and 0=segment not received. (The remaining 64 bits of MD are spares and shall be transmitted as zeros). Thus at all times this field represents the current status of segment delivery from the time of ELM initiation. If the interrogator does not receive a reply to the Comm-C interrogation containing the final segment, this interrogation is repeated until a reply is successfully received. When all segments have been received by the transponder, the interrogator knows that its last transfer was indeed final and closes out the transaction by the transmission of a special Comm-C interrogation with RC=11, NC=0001 and bit 9=1, thereby resetting the TA field and any other bookkeeping registers in the transponder. This "Clear Comm-C" interrogation elicits a single Comm-D reply (with arbitrary message content) which serves as a technical acknowledgement to the interrogator. To expedite the display of the message, the ELM processor in the transponder transfers the message to the appropriate output device as soon as it senses the presence of all segments (i.e., it does not await the receipt of the Clear Comm-C interrogation). However, output transfer shall be enabled only once for each ground-to-air ELM message to avoid displaying the same message more than once in the event of retransmission due to TA delivery failure.

NOTE.—The interrogator will always send a Clear Comm-C message after partial delivery of an ELM which it wishes to cancel, as well as after normal complete delivery. This

procedure ensures that there will be no confusion between segments of successive ELM's, even if the initializing segment of the second ELM is subject to link failure.

2.2.5.1.4 *Segments not Received by Transponder.* If one or more segments of the ELM are not received by the transponder, this fact is indicated by zeros in the corresponding bit positions in the TA. If the TA indicates that the initializing segment was not received, the interrogator retransmits the entire message. If segments other than the initializing segment are missing, they are retransmitted with RC=01, except for the last of the missing segments which has RC=10 to request an updated TA. This process continues until the ground receives a cumulative TA indicating that all segments have been delivered. At that point, the transaction is closed out as described above. If standard DABS contact is lost (i.e., if more than nominally 16 seconds has elapsed since the transponder last replied to a discrete address interrogation with IT=1) before a ground-to-air transaction is closed out, the transaction shall be abandoned.

2.2.5.2 *Air-to-Ground ELM Transfer.* The transfer of an air-to-ground ELM is similar to the ground-to-air process. Differences between the two protocols result primarily from the facts that (1) all channel activity is ground initiated and (2) the transponder can reply with a longer communications format only when given specific permission by the ground. Comm-D transmissions shall follow each other in intervals of 136±1 μsec.

2.2.5.2.1 *Initialization.* An N-segment air-to-ground ELM transfer is initiated by a non-synchronized Surveillance or Comm-B reply containing the D bit set to 1, and DC set to N-1. The interrogator is fully initialized as soon as it receives this information.

2.2.5.2.2. *Transmission.* The interrogator requests the air-to-ground transmission of ELM segments using a single Comm-C transmission with RC=11. In this format, the NC field contains all zeros and the first 16 bits of MC form a special 16-bit Segment Request (SR) field, in which the successive bit positions correspond to segment numbers 0 through 15. (The remaining 64 bits of MC are spares and shall be transmitted as zeros). The designated response is a series of Comm-D replies with K=0 containing those message segments for which the corresponding SR bit is set to one. (The transponder thus is not told which segments have been successfully received, but those which are to be transmitted.) After the complete response to the Comm-C interrogation has been received, another Comm-C interrogation with RC=11, NC=0000 and an updated SR field is transmitted to request segments not yet received (either because they were not requested in the first response, or because they were received in error). The transponder replies again with the requested segments. The cycle is repeated until all segments have been received.

NOTE.—This process corresponds to the process described in 2.2.5.1. Although the precise spacing of segments in the response is known to the interrogator, each segment is transmitted as a full Comm-D reply with a preamble to resynchronize the reply decoder in case the preceding segment is lost.

2.2.5.2.3 *Termination.* The transaction is terminated by a special Comm-C interrogation with RC=11, NC=0010, and bit 9=1. This interrogation resets the D-bit and DC field. It also elicits a single Comm-D reply (with arbitrary contents in the MD field) which serves as a technical acknowledgement to the interrogator.

NOTE.—The ground processor, which has control of message traffic, services ground-to-air messages in the order received except when a user-supplied priority tag indicates otherwise. The existence of a small number of priority message classes permits, for example, an urgent command to move ahead of other waiting messages. For air-to-ground messages, the possible priority classes are more limited, since there is less advance knowledge of the message parameters. However, ELM transfers are generally regarded as having lower priority than Comm-A or Comm-B messages. Delivery of a ground-to-air ELM can be interrupted at any time to permit the delivery of an urgent Comm-A message, and then resumed. Similarly, a Comm-B message can interrupt an air-to-ground ELM. Message numbering (as opposed to segment numbering) in not required for this protocol; if desired by the user, message IDs may be coded within the messaage text.

2.3 *Transponder Characteristics.*

2.3.1 *Transponder ATCRBS Performance.* The transponder shall meet all provisions of paragraphs 2.1 through 2.7 and paragraph 2.11 of FAA Selection Order 1010.51A when replying to Mark X (and ATCRBS) ground stations, except that modified performance is required as follows:

(a) In paragraph 2.7.1.2 read "9 dB" as "6 dB".

(b) In paragraph 2.7.5.1.2 read "77 dB" as "75 dB".

(c) In paragraph 2.7.12.2 read "18.5 dB" as "21 dB".

2.3.2 *Reply Characteristics.*

2.3.2.1 *ATCRBS.* The transponder shall reply to standard ATCRBS Mode A and Mode C interrogations under the conditions prescribed in FAA Selection Order 1010.51A, paragraph 2.7.1, except when inhibited from replying by an ATCRBS lockout condition or during recovery following a DABS reply. The transponder shall not reply to ATCRBS interrogations when subject to the conditions prescribed in FAA Selection Order 1010.51A, paragraph 2.7.2 for no reply. The transponder shall not generate ATCRBS replies or suppressions in response to interrogations for which P_1 is received during an ATCRBS suppression interval.

2.3.2.2 *ATCRBS/DABS All-Call.* The transponder shall reply to an ATCRBS/DABS Mode A or Mode C All-Call interrogation, except when inhibited from replying by a lockout condition or during recovery following a DABS or ATCRBS reply. The transponder shall not reply with greater than 10% reply to interrogation ratio (with either an All-Call, an ATCRBS, or a DABS reply) in response to an ATCRBS/DABS All-Call interrogation when the interrogation contains a P_s pulse which satisfies the requirements for ATCRBS suppression, or when inhibited by an ATCRBS/DABS All-Call lockout condition. The transponder shall not produce a DABS All-Call reply in response to a CW transmission or a single pulse of long duration whose received amplitude variations do not meet the specifications for an All-Call interrogation. There shall be an ATCRBS reply and no ATCRBS/DABS All-Call reply to a P_1-P_3-P_4 transmission in which either of the following conditions is satisfied:

(a) A leading edge for P_4 is not detected within the interval from 1.2 to 1.8 μsec following the leading edge of P_3,

(b) The amplitude of P_4 is more than 6 dB below the amplitude of P_3.

The reply to interrogation ratio shall not exceed 10% for replies of any type if the conditions for an ATCRBS/DABS All-Call reply are otherwise satisfied, but the duration of P_4 is greater than or equal to 1.2 μsec.

2.3.2.2.1 *Suppression.* Suppression as described in FAA Selection Order 1010.51A, paragraph 2.7.4 shall apply to the responses to ATCRBS/DABS All-Calls.

2.3.2.3. *DABS.* The transponder shall reply to valid DABS-Only All-Call, Surveillance, Comm-A, Comm-S or Comm-C interrogations, which are correctly addressed and within specified limits of received signal amplitude, except when the transponder is in a recovery state from a prior DABS or ATCRBS reply. The transponder shall not reply to a DABS interrogation whenever any one or combination of the following conditions occur:

a. The decoded data bits corresponding to the Address-Parity field contain other than the aircraft's unique discrete address, or—in the case of a DABS-Only All-Call—if the decorded parity field contains other than an acquisition address (2.2.3.2.1).

b. A lockout condition inhibits recognition of interrogations from auxiliary DABS sensors (2.2.3.4.3.1).

c. An all-zero address in a Surveillance or Comm-A interrogation indicates that the interrogation is a DABS Broadcast transmission (for which no reply is specified).

d. A DABS sidelobe-suppression (SLS) condition inhibits replies.

e. The interrogation requests a reply which the transponder is not equipped to transmit.

The transponder shall not produce a discrete DABS reply to a CW transmission or a single pulse of long duration.

2.3.2.4 *DABS Sensitivity and Dynamic Range.* For any given interrogation conditions, the minimum triggering level, or MTL, is defined as the minimum input power level for at least 90 percent reply to interrogation ratio. When referred to the transponder RF port(s), the nominal value of MTL shall be −77 dBm, with a tolerance range of ±3 dB for any combination of the following conditions:

Modes—DABS Surveillance, DABS-Only All-Call, DABS Comm-A, DABS Comm-S, the DABS Comm-C.

Interference—none.

SLS——P_5 pulse absent.

RF port—either (if diversity equipped).

Other—any interrogation condition satisfying these specifications.

Under these conditions, the reply to interrogation ratio shall be at least 90 percent for any input power level between MTL and −24 dBm, shall be at least 99 percent for any input power level between (MTL +3 dB) and −27 dBm, and shall not exceed 10 percent for any input power level less than −84 dBm, referred to the transponder RF port(s).

NOTE.—For this MTL requirement, a nominal 3 dB transmission line loss and an antenna performance equivalent to that of a simple quarter wave antenna are assumed. In the event these assumed conditions do not apply, the MTL of the installed transponder system must be the same as that of the assumed system.

2.3.2.5 *DABS SLS.* The transponder shall not reply to DABS uplink transmissions in

which a sync phase reversal is not detected in the assigned interval.

2.3.2.6 *Dead Time.* After replying to an ATCRBS or DABS interrogation, the transponder shall be capable of replying to a following ATCRBS or DABS interrogation whose P_1 pulse is received at least 125 μsec following the transmission of the last pulse of the reply, provided the transmitter duty cycle limits of 2.3.2.8.2 are not violated.

NOTE.—It is recommended that the dead time be as low as possible to maximize the transponder round reliability.

2.3.2.7 *Random Triggering Rate.*

2.3.2.7.1 *Unwanted DABS Replies.* The transponder random triggering rate of unwanted DABS replies which result in false data transfers over the digital data link interface (see 2.3.8) shall not exceed one per hour.

2.3.2.7.2. *Squitter Rate.* When Squitter transmissions are not locked out, the interval between successive Squitters shall be random with a nominal mean value of one second and a standard deviation of 0.1 to 0.2 second. Squitter transmissions shall be capable of being inhibited via the Squitter Inhibit interface (see 2.3.6.4). Squitters shall be delayed following the decoding of an ATCRBS, an All-Call, or a correctly-addressed DABS interrogation until the completion of the corresponding reply. Squitter transmissions shall be delayed during transponder suppression intervals controlled by other avionics equipment in the aircraft. Squitter transmissions shall not be suppressed during ATCRBS sidelobe suppression intervals.

2.3.2.8 *Reply Rate Limiting.*

2.3.2.8.1 *ATCRBS Replies.* ATCRBS reply rate limiting shall operate in accordance with the provision of paragraphs 2.7.10.1 and 2.7.10.3 of FAA Selection Order 1010.51A.

2.3.2.8.2 *DABS Replies.* DABS All-Call and discrete replies may be included along with ATCRBS replies as part of the total reply sound used to determine the receiver sensitivity for ATCRBS reply rate limiting specified in 2.3.2.8.1. It is permissible for the sensitivity to DABS All-Call and discrete address transmissions to be reduced when ATCRBS reply rate limiting is in effect. If the ATCRBS reply rate limit is not exceeded and the provision of 2.3.2.6 and 2.3.4.1 are not violated, the transponder shall be capable of replying to all combination of ATCRBS and DABS uplink transmissions for which the resulting transmitter duty cycle is no greater than 2 percent, averaged over a 100-ms period.

2.3.2.8.3 *Squitters.* Squitters may be included as part of the total reply count used for ATCRBS reply rate limiting. The Squitter rate shall not be affected by reply rate limiting.

2.3.2.9 *DABS Peak Reply Rate.* At least once every four seconds, the transponder shall be capable of transmitting six short (56-bit) or three long (112-bit) DABS replies in each of five consecutive 5-millisecond intervals.

2.3.2.10 *Reply Rate, Extended Length Message (ELM) Transmissions.* Within a single 25-msec period, a transponder with ELM capability shall be capable of transmitting a minimum of twenty-four Comm-D (112-bit) transmissions arbitrarily spaced in the 25-msec period.

NOTE.—The transponder must handle one 16-segment air-to-ground ELM in 4 seconds (see 2.3.6.2). Twenty-four Comm-D transmissions are specified to allow a margin for reinterrogation in case of link failure.

2.3.3 *Lockout Control.* Replies to ATCRBS interrogations, replies to ATCRBS/DABS All-Call interrogations, and Squitters and replies to auxiliary discrete-address interrogations shall be independently locked out (i.e., the transponder shall be insensitive to such interrogations) upon receipt of an interrogation with the appropriate code bits set, as described in 2.2.3.4.3. Each lockout shall be cleared or unlocked independently of the others.

2.3.3.1 *ATCRBS Lockout Time-out-Duration.* The duration T_{AL} of the ATCRBS lockout time-out shall be 16±2 seconds.

2.3.3.2 *Squitter Lockout Time-out Duration.* The duration T_{SL} of the Squitter lockout time-out shall be 16±2 seconds.

2.3.3.3 *DABS Lockout Time-out Duration.* The duration T_{DL} of the DABS lockout time-out shall be 16±2 seconds.

2.3.4 *Recovery Times.*

2.3.4.1 *ATCRBS.* All transponder recovery times related to ATCRBS interrogations and replies shall be as prescribed in FAA Selection Order 1010.51A paragraph 2.7.7.2.

2.3.4.2 *DABS.*

2.3.4.2.1 *Receiver Desensitization.* Upon receipt of any pulse of more than 0.7 μsec duration, the transponder receiver shall be desensitized in accordance with the provisions of FAA Selection Order 1010.51A paragraph 2.7.7.1.

2.3.4.2.2 *Recovery from a DABS Interrogation.* Following receipt of a DABS interrogation in which either the address is not correct, or the data block is decoded, but there is no reply for reasons a, b, d, e, specified in 2.3.2.3, the transponder shall recover sensitivity after the end of the DABS interrogation at the rate prescribed for recovery times in FAA Selection Order 1010.51A, paragraph 2.7.7.2.

2.3.4.2.3 *Recovery from a Single Pulse.* In the event that a P_2 pulse is not received following a single pulse meeting the specifications for a DABS P_1 pulse, the transponder shall recover sensitivity at the rate prescribed for recovery times in FAA Selection Order 1010.51A, paragraph 2.7.7.2.

2.3.4.2.4 *Recovery from an ATCRBS Suppression Pair.* When ATCRBS is not locked out, ARCRBS suppression shall be in effect following the receipt of a P_1-P_2 suppression pair. If a DABS data block is not detected following a P_1-P_2 pair, the transponder shall recover sensitivity to DABS interrogations at the rate prescribed for recovery times in FAA Selection Order 1010.51A, paragraph 2.7.7.2. ATCRBS suppression pairs shall not otherwise interfere with the reception of DABS interrogations regardless of the ATCRBS lockout state of the transponder.

2.3.4.2.5 *Recovery from a Broadcast Transmission.* After receipt of a broadcast transmission (2.2.3.2.7), the transponder shall recover sensitivity by 128 μsec after receipt of the sync phase reversal.

2.3.5 *Code Interfaces.*

2.3.5.1 *Address Code.* A means shall be provided for setting the address code.

2.3.5.1.1 *Specific Acquisition Address Code.* A means shall be provided for setting of the variable bits of the specific acquisition address code (2.2.3.2.1.2).

NOTE.—It is preferable that the means for setting the address codes be associated with the installation mounting configuration, so that a change of transponder will not require further action to reset the address codes.

2.3.5.2 *Pressure-Altitude Code.* A means shall be provided for automatically selecting the 12-bit pressure-altitude code (specified in FAA Selection Order 1010.51A paragraph 2.7.13.2.5) for inclusion in ATCRBS and DABS replies.

2.3.5.3 *Maximum Airspeed Code.* A means shall be provided for setting of the maximum airspeed (MX) code.

NOTE.—It is preferable that the means for setting the code be associated with the installation mounting configuration, so that a change of transponder will not require further action to reset the code.

2.3.5.4 *Squitter Inhibit.* A means shall be provided for accepting an external signal to inhibit Squitter transmissions.

2.3.6 *Data Handling.*

2.3.6.1 *Standard Transaction Rates.* The transponder shall be capable of handling at least 30 Surveillance or Comm-A interrogations and at least 15 Comm-B replies in a four-second period with all transactions arbitrarily spaced within a single 25-msec interval.

2.3.6.2 *ELM Transaction Rates.* The transponder shall be capable of handling at least four complete sixteen-segment ground-to-air ELM's and one complete sixteen-segment air-to-ground ELM in a four-second period with all transactions arbitrarily spaced within a single 25-msec interval.

2.3.6.3 *Data Interface.* The transponder shall be capable of:

(a) Presenting the content, with the possible exception of the address code, of all properly decoded uplink transmissions which have been received by the transponder. This content shall be available within 1 second after receipt of a normal transmission and within 4 seconds after receipt of an ELM transmission.

(b) Accepting every downlink field which is not generated internally by the transponder, i.e., any class X field, for transmission to the ground. Such acceptance shall begin on or before the start of the reply transmission.

NOTE.—This requirement applies in addition to data link functions which may be integrated into the transponder. The interface will, with appropriate external equipment, allow for transfer of data from one ground sensor to another through the transponder.

2.3.6.3.1 *Unavailable Data.* If a reply is transmitted containing one or more data fields for which there is no available data input device, or for which there is an input device with no data to transmit, the transmitted data field(s) shall consist of all zeros.

2.3.7 *Synchronizing Interface.* A signal shall be presented by the transponder from which the time of receipt of the sync phase reversal of a synchronized interrogation may be determined with an accuracy of ±50 nsec.

This notice is issued under sections 307(b) and 312 (a) and (c) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b) and 1353 (a) and (c)).

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ROBERT W. WEDAN,
Acting Director, Systems Research and Development Service, ARD-1.

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MONDAY, MARCH 27, 1978
PART III

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Proposed Revision of Certain Regulations

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 10, 13, and 14]

IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Proposed Revision

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Proposed rulemaking.

SUMMARY: The rules proposed herein would amend certain regulations governing the importation, exportation, and transportation of wildlife. The rules would implement provisions of the Endangered Species Act of 1973 and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter the "Convention"), the Lacey Act, the Black Bass Act, and other statutes administered by the Service. This proposed rule would provide controls for the exportation of wildlife similar to those already existing for the importation of wildlife, and would establish a licensing system for importation and exportation of wildlife. The proposal also would revise the definition of "fish and wildlife" to conform to the Endangered Species Act, and would amend the marking requirements provided for by the Lacey and Black Bass Acts. This proposal would change or delete certain border ports through which certain wildlife may enter the United States. These modifications reflect changes in traffic patterns at the subject ports. Finally, this proposal would delete certain items from the list of shellfish and fishery products importable at any Customs port of entry to bring the list into conformity with the definition of shellfish and fishery products as provided by the Tariff Schedules of the United States (T.S.U.S.).

DATES: Comments are due on or before May 26, 1978. Requests for hearings must be received no later than May 26, 1978.

ADDRESSES: Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to: Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. Comments should make reference to file number REG 14-02-1. Requests for hearings may be sent to the same address. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Supporting data and comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Richard A. Stephen, Legal Specialist, Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 600, 1612 K Street NW., Washington, D.C. 20036, 202-343-9237.

SUPPLEMENTARY INFORMATION: In addition, the Endangered Species Act imposes a notice and opportunity for public hearing requirement for regulations changing designated ports. (16 U.S.C. 1538(f)(1)). As explained more fully later in this preamble, the present proposal would terminate the border port status of Tok Junction, Alaska; Norton, Vt.; Noyes, Minn.; Oroville, Wash.; and San Luis, Ariz., as well as the special port status of Tampa, Fla. The proposal would confer border port status on Alcan, Alaska; Jackman, Maine; Pembina, N. Dak.; and Lukeville, Ariz. Accordingly, if requested to do so, the Service will hold a hearing on these changes. Requests for such a hearing may be sent to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, and must be received at that address no later than May 26, 1978. Upon receiving a hearing request, the Service will publish in the FEDERAL REGISTER a Notice of Hearing which will specify the time, place, presiding officer, and procedures for the hearing.

BACKGROUND

The Service enforces a variety of laws relating to the importation, exportation, and transportation of wildlife. Some of these laws are keyed to particular species of wildlife, while others are general and apply to types of activity involving all wildlife. Based on these laws, the Service has issued regulations generally governing importation, exportation, and transportation of wildlife. These regulations are organized to follow the functional lines of transactions, rather than being organized on the basis of the authority from which regulations are derived. This is intended to provide a comprehensive, understandable, and workable system for the control of the movement of wildlife.

The Service has reviewed its operations in importation and exportation control, which are presently applied by the Service in cooperation with the U.S. Customs Service and other Federal and State agencies. In its review, the Service found several areas where its regulations could be modified to resolve ambiguities, clarify requirements or procedures, or institute changes in procedures. The present proposal is intended to accomplish these tasks.

In addition, the Endangered Species Act of 1973 (16 U.S.C. §§ 1531-1543) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora obligate the United States to control the exportation of wildlife and plants. This proposed amendment sets forth a general revision of the regulations regading exportation of wildlife.

Section 9(d) of the Endangered Species Act (16 U.S.C. 1538(d)) makes it unlawful for any person to engage in business as an importer or exporter of fish or wildlife, other than certain shellfish and fishery products, without first having obtained permission from the Secretary of the Interior.

On May 5, 1974, the Service granted temporary permission to all such persons by a notice in the FEDERAL REGISTER (39 FR 8357). That notice indicated that rules for obtaining permission on a more permanent basis would be forthcoming; this proposal contains such rules.

DEFINITION OF "FISH OR WILDLIFE"

The proposed rulemaking would amend Part 10 of Title 50, CFR, by amending the definition in section 10.12 of "fish or wildlife" to bring it in conformity with the definition provided in the Endangered Species Act, and thereby to include the class insecta in the definition.

TECHNICAL AMENDMENTS TO PART 13

The proposed rulemaking would make minor amendments to Part 13 by adding a clarifying paragraph to § 13.3 to the effect that the term "permit" means either a license or a permit, as the context may require. The table of permit fees, listed in § 13.11(d), would be amended by the addition to the table of the import/export license with a fee of $50. The permit application table of reference listed in § 13.12(b) would be amended by the addition of the import/export license, with § 14.93 given as its cross-reference section.

DEFINITION OF "EXPORT"

The proposed rulemaking would amend Part 10 by adding a definition of "export" to section 10.12. The term would be defined as the beginning of the final transportation out of the United States in a continuous route or journey or the delivery to a common carrier for such transportation. This definition provides the basis for the revisions in Part 14 which deal with exports.

EXPORT CONTROLS

The revision of Part 14 dealing with controls of exportation would be accomplished basically by adding the word "exportation" where appropriate in the existing rules. This would have the effect, for instance, of requiring all exportation of wildlife to occur at

the same ports designated for the importation of wildlife. In subpart E, it would be made clear that wildlife being exported may be subject to certain inspection requirements. It should be noted, however, that the clearance requirements apply only to importation of wildlife.

DESIGNATED PORTS

Certain border ports listed in 50 CFR § 14.16, through which wildlife not requiring permits under Parts 16, 17, 18, 21, or 23 of Title 50 may be imported or exported, would be changed or deleted through this proposal. Tok Junction, Alaska, would be replaced by Alcan, Alaska, because the U.S. Customs facility has been moved from Tok Junction to Alcan. Norton, Vt., would be replaced by Jackman, Maine, because the traffic in wildlife is much heavier on the highway route through Jackman than on the railway line through Norton. Noyes, Minn., would be deleted because the port at Pembina, N. Dak., less than two miles away, lies on a newly completed interstate highway. Oroville, Wash., would be deleted because the traffic in wildlife through that port is insufficient to justify its maintenance as a border port. San Luis, Ariz., would be replaced by Lukeville, Ariz., because the wildlife traffic from Mexico is much greater at Lukeville than at San Luis. Section 14.22, which authorized importation of tropical, ornamental and aquarium fish (other than endangered or injurious species) at Tampa, Fla., would be deleted, because most of traffic in these items comes through Miami, Fla. The volume of traffic entering these items through Tampa does not justify maintaining it as a port.

Section 14.21 would be modified to conform to § 9(f)(1) of the Endangered Species Act, which allows an exception to the requirement that importation or exportation be at designated ports for non-endangered and non-threatened shellfish or fishery products imported for human or animal consumption, or taken in certain waters for recreational purposes. Frogs and frog meat (secs. 14.21(a) and 14.21(b)) would be deleted from the list because they are not shellfish or fishery products. Cod oil (sec. 14.21(i)) would be deleted from the list because it is covered under the item "fish oil" in the list. Under "Edible preparations" (sec. 14.21(k)), T.S.U.S. No. 182.48 (seaweeds and other marine plants prepared for use as human food or as an ingredient in such food) would be deleted because these items are not shellfish or fishery products. Pearls and coral (secs. 14.21(m) and 14.21(n)) would be deleted from the list of such items which may be imported or exported at any port because these items are not for human or animal consumption.

DOCUMENTATION

The Convention and the Endangered Species Act place certain obligations on the United States to require export permits from the country of origin and re-export certificates from the country of re-export for certain wildlife (see §§ 17.11 and 23.23 of this Title 50). In order to begin implementation of Convention obligations, subpart D (foreign documentation) of Part 14 would be deleted in its entirety. Instead, new language would be added to § 14.52 to require that United States import permits and any required foreign permits or certificates be presented for inspection to obtain clearance.

INSPECTION AND CLEARANCE

Subpart E would be modified to restate the inspection provisions of the Endangered Species Act (16 U.S.C. § 1540(e)(3)). It also would require that all wildlife imported at a designated port be cleared by the Director (or his authorized representative; see 50 CFR 10.12). Provisions are made for clearance of live animals imported at designated ports, which could be inspected and cleared by Customs officers when a representative of the Director is temporarily unavailable. Wildlife lawfully imported under §§ 14.15, 14.16, or 14.19 could be similarly cleared. However, any such inspection and clearance would be subject to subsequent investigation by the Director.

WILDLIFE DECLARATIONS

Subpart F would include a new § 14.63, which requires a completed Declaration for Exportation of Fish or Wildlife (Form 3-177) to be filed with the Director prior to exportation of any wildlife. This subpart would also be modified to permit scientists importing unidentified wildlife for taxonomic or faunal survey purposes to file a declaration describing the imported wildlife in general terms, with an amended declaration to be filed at a later date after there has been an opportunity to identify the wildlife.

MARKING REQUIREMENTS

In subpart H of Part 14, the marking requirements for shellfish and fishery products would be altered to conform to accepted commercial practice. A similar proposal for § 14.82 was published in the FEDERAL REGISTER on June 7, 1976 (41 FR 22831). However, that proposal has been changed and is reproposed here reflecting further study.

BUSINESS LICENSES

A new subpart I would be added to Part 14 to implement the import/export licensing provision of § 9(d) of the Endangered Species Act. This subpart would clarify the licensing requirement, provide a means of applying for such license, prescribe license conditions, and establish the tenure of such license.

Section 9(d) of the Act establishes the licensing requirement for any person who "engage[s] in business as an importer or exporter" of certain wildlife. The proposed section 14.91(b) would define the quoted phrase as the continuous devotion, for purposes of livelihood or profit, of time, attention, labor and effort to any activity involving the importation or exportation of wildlife. The remainder of § 14.91 and § 14.92 would set forth the types of businesses falling within or without the defintion. § 14.93 would implement the record keeping, reporting, and inspection provisions which the Act makes applicable to licensees.

The primary author of this document is Richard A. Stephan, Legal Specialist.

1. It is hereby proposed to amend section 10.12 of Part 10, Title 50 of the Code of Federal Regulations, by inserting the following new definition in proper alphabetical order:

"'Export' means to begin the final transportation from a point within the United States to appoint outside the United States in a continuous route or journey or to deliver to a common carrier for such transportation."

2. It is proposed to amend Part 10, section 10.12, by amending the definition of "Fish or wildlife" to read as follows:

"'Fish or wildlife' means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, insect, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof."

3. It is proposed to amend Part 13, section 13.3, by adding the following paragraph:

(b) As used in this Part 13, the term "permit" shall refer to either a license or permit as the context may require.

4. It is proposed to amend Part 13, section 13.11(d), by adding to the table of fees the following:

Import/export license (Part 14 of this subchapter) $50.00.

5. It is proposed to amend Part 13, section 13.12(b), by adding to the table of reference the following:

Import/export license Sec. 14.93.

6. It is also proposed to revise and republish Part 14 in its entirety, to read as follows:

PART 14—IMPORT, EXPORT, AND TRANSPORTATION OF WILDLIFE

Subpart A—Introduction

Sec.
14.1 Purpose of regulations.
14.2 Scope of regulations.

Subpart B—Importation and Exportation at Designated Ports

Sec.
14.11 General restrictions.
14.12 Designated ports.
14.13 Emergency diversion.
14.14 Intransit shipments.
14.15 Personal baggage and household effects.
14.16 Border ports.
14.17 [Reserved]
14.18 Marine mammals.
14.19 Special ports.
14.20 Exceptions by permit.
14.21 Shellfish and fishery products.

Subpart C—Designated Port Exception Permits

14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.
14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.
14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

Subpart D—[Reserved]

Subpart E—Inspection and Clearance of Importations and Exportations

14.51 Inspection of wildlife.
14.52 Clearance of imported wildlife.
14.53 Clearance procedures for imported wildlife.
14.54 Unavailability of Service officers.
14.55 Exceptions to clearance requirements.

Subpart F—Wildlife Declaration

14.61 Import declaration requirements.
14.62 Exceptions to import declaration requirements.
14.63 Export declaration requirements.
14.64 Exceptions to export declaration requirements.

Subpart G—[Reserved]

Subpart H—Marking Requirements for Certain Shipments

14.81 Marking requirement.
14.82 Exceptions and alternatives to the marking requirement.
14.83 Symbol marking permit.

Subpart I—Import/Export Licenses

14.91 License requirement.
14.92 Exceptions to licensing requirement.
14.93 License application procedure, conditions, and expiration.

AUTHORITY: Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281 (18 U.S.C. 42-44); Endangered Species Act of 1973, section 11(f), 87 Stat. 884 (16 U.S.C. 1531-1543); Marine mammal Protection Act of 1972, section 112(a), 86 Stat. 1042 (16 U.S.C. 1382); Eagle Act, sec. 2, 54 Stat. 251 (16 U.S.C. 668a); Act of August 31, 1951, Ch. 376, Title 5, section 501, 65 Stat. 280 (31 U.S.C. 483a); Black Bass Act, 44 Stat. 576, sec. 5, as amended, 83 Stat. 281 (16 U.S.C. 852c).

Subpart A—Introduction

§ 14.1 Purpose of regulations.

The regulations contained in this Part provide uniform rules and procedures for the importation, exportation, and transportation of wildlife.

§ 14.2 Scope of regulations.

The provisions in this Part are in addition to, and do not supersede other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and transportation of wildlife.

Subpart B—Importation and Exportation at Designated Ports

§ 14.11 General restrictions.

Except as otherwise provided in this Part, no person may import or export any wildlife at any place other than a Customs port of entry designated in § 14.12.

§ 14.12 Designated ports.

The following Customs ports of entry are designated for the importation or exportation of wildlife and shall be referred to hereafter as "designated ports:"

(a) Los Angeles, Calif.;
(b) San Francisco, Calif.;
(c) Miami, Fla.;
(d) Honolulu, Hawaii;
(e) Chicago, Ill.;
(f) New Orleans, La.;
(g) New York, N.Y.; and
(h) Seattle, Wash.

§ 14.13 Emergency diversion.

Wildlife which has been imported into the United States at any port or place other than a designated port solely as a result of a diversion due to an aircraft or vessel emergency must proceed as an intransit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful entry.

§ 14.14 In-transit shipments.

Wildlife destined for a point within or outside the United States may be imported into the United States at any port if such wildlife proceeds as an intransit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful entry.

§ 14.15 Personal baggage and household effects.

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage may be imported into or exported from the United States at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw or dressed fur; raw, salted or crusted hide or skin; game trophy; or to wildlife requiring a permit pursuant to Part 17, 18, 21, or 23 of this subchapter B.

(b) Wildlife products or manufactured articles, including mounted game trophies or tanned hides, which are not intended for sale and are part of a shipment of the household effects of persons moving their residence to or from the United States may be imported or exported at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw fur; raw, salted, or crusted hide or skin; or to wildlife requiring a permit pursuant to Part 17, 18, 21, or 23 of this subchapter B.

§ 14.16 Border ports.

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this subchapter B, wildlife lawfully taken by sportsmen in the United States, Canada, or Mexico and imported or exported for noncommercial purposes, may be imported or exported at any Customs port of entry.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this subchapter B, wildlife originating in Canada or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Alaska—Alcan;
(2) Idaho—Eastport;
(3) Maine—Calais, Houlton, Jackman;
(4) Massachusetts—Boston;
(5) Michigan—Detroit, Port Huron, Sault Sainte Marie;
(6) Minnesota—Grand Portage, International Falls, Minneapolis—St. Paul;
(7) Montana—Raymond, Sweetgrass;
(8) New York—Buffalo-Niagara Falls, Champlain;
(9) North Dakota—Dunseith, Pembina, Portal;
(10) Ohio—Cleveland;
(11) Vermont—Derby Line, Highgate Springs; or
(12) Washington—Blaine, Sumas.

(c) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this subchapter B, wildlife originating in Mexico or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Arizona—Lukeville, Nogales;
(2) California—Calexico, San Diego-San Ysidro;
(3) Texas—Brownsville, El Paso, Laredo.

§ 14.17 [Reserved]

§ 14.18 Marine mammals.

Any person under the jurisdiction of the United States who has lawfully taken a marine mammal on the high seas and who is authorized to import such mammal in accordance with the Marine Mammal Protection Act of 1972 and the regulations issued pursu-

ant thereto (Parts 18 and 216 of the Title) may import such marine mammal at any port or place.

§ 14.19 Special ports.

Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this subchapter B, wildlife which is imported for final destination in Alaska, Puerto Rico, the Virgin Islands, or Guam may be imported through those Customs ports of entry named hereafter for the respective State or territory of final destination.

(a) Alaska—Alcan, Anchorage, Fairbanks, Juneau;

(b) Guam—Agana;

(c) Puerto Rico—San Juan;

(d) Virgin Islands—San Juan, Puerto Rico.

§ 14.20 Exceptions by permit.

Wildlife may be imported into or exported from the United States at any Customs port of entry designated in the terms of a valid permit issued pursuant to subpart C of this Part.

§ 14.21 Shellfish and fishery products.

Except for wildlife requiring a permit pursuant to Part 16 or 17 of this subchapter B, the following fish, shellfish, and fishery products, as further defined in the portions of the "Tariff Schedules of the United States" cited below, if imported for purposes of human or animal consumption, or if taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes, may be imported or exported at any Customs port of entry:

(a) Fish, fresh, chilled, or frozen (T.S.U.S. Nos. 110.10-110.70)—trout and salmon to conform to § 14.61, concerning form 3-177, and Part 16 of this subchapter, concerning injurious species.

(b) Fish, dried, salted, pickled, smoked or kippered (T.S.U.S. Nos. 111.10-111.92).

(c) Fish in airtight containers (T.S.U.S. Nos. 112.01-112.94).

(d) Other fish products (T.S.U.S. Nos. 113.01-113.60).

(e) Shellfish (T.S.U.S. Nos. 114.01-114.55).

(f) Fish oils (T.S.U.S. Nos. 177.02-177.26).

(g) Products of American fisheries (T.S.U.S. Nos. 180.00-180.20).

(h) Edible preparations (T.S.U.S. Nos. 182.05, 182.11, 182.50).

(I) Animal feeds (T.S.U.S. Nos. 184.54, 184.55).

Subpart C—Designated Port Exception Permits

§ 14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and § 13.11 and § 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife for scientific purposes at one or more named Customs port(s) of entry not otherwise authorized by subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port for scientific purposes shall be submitted to the Director. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The scientific purpose or uses of the wildlife to be imported or exported;

(2) The number and kinds of wildlife to be imported or exported, described by scientific and common names;

(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port; and

(5) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter B, permits to import or export wildlife at a nondesignated port issued under this section shall be subject to the following condition: Permittee shall file such reports as specified on the permit, if any.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Benefit to a bona fide scientific research project, other scientific purpose, or facilitation of the exchange of preserved museum specimens;

(2) The kind of wildlife involved and its place of origin;

(3) The reasons why the exception is requested; and

(4) Availability of a service officer.

(e) *Expiration of permits.* Any permit issued under this section shall expire on the date designated on the face of the permit. In no case shall any such permit be valid for more than 2 years from the date of issuance.

§ 14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and § 13.11 and § 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife, in order to minimize deterioration or loss, at one or more named Customs port(s) of entry not otherwise authorized by subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port to minimize deterioration or loss shall be submitted to the Director. Each such application must contain the general information and certification required in § 13.12(a) of this sub-chapter, plus the following additional information:

(1) The number and kinds of wildlife to be imported or exported described by scientific and common names;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (Information must be included to show that an importation or exportation at a designated port would result in a substantial deterioration or loss to the wildlife); and

(4) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general condition set forth in Part 13 of this subchapter B, permits to import or export wildlife at a nondesignated port issued under this section shall be subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit, if any; and

(2) Permittee shall pay consts incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Likelihood of a substantial deterioration or loss of the wildlife involved;

(2) The kind of wildlife involved and its place of origin; and

(3) Availability of a Service officer.

(e) *Expiration of permits.* Any permit issued under this section shall expire on the date designated on the face of the permit. In no case shall any such permit be valid for more than 2 years from the date of issuance.

§ 14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and § 13.11 and § 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife in order to alleviate undue ecomomic hardship at one or more named Customs port(s) of entry not otherwise authorized by subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedures.* Applications for permits to import or export wildlife at a nondesignated port to alleviate undue economic hardship shall be submitted to the Director. Each such application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife to be imported or exported described by scientific and common names, and a description of the form in which it is to be imported or exported, such as "live," "frozen," "raw hides," or a full description of any manufactured product;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The name and address of supplier or consignee;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (Information must be included to show the monetary difference between the cost of importation or exportation at the port requested and the lowest cost of importation or exportation at the port through which importation or exportation is authorized by subpart B without a permit); and

(5) A statement as to whether exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter B, permits to import or export wildlife at a nondesignated port issued under this section shall be subject to the following conditions:

(1) Permittee shall file such reports as specified on the permit, if any; and

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) The difference between the cost of importing or exporting the wildlife at the port requested and the lowest cost of importing or exporting such wildlife at a port authorized by these regulations without a permit;

(2) The severity of the economic hardship that likely would result should the permit not be issued;

(3) The kind of wildlife involved, including its form and place of origin; and

(4) Availability of a Service officer.

(e) *Expiration of permits.* Any permit issued under this section shall expire on the date designated on the face of the permit. In no case shall any such permit be valid for more than 2 years from the date of issuance.

Subpart D—[Reserved]

Subpart E—Inspection and Clearance of Importations and Exportations

§ 14.51 Inspection of wildlife.

To the extent authorized by law, the Director may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation.

§ 14.52 Clearance of imported wildlife.

(a) Except as otherwise provided by this subpart, all wildlife imported into the United States must be cleared by the Director prior to release from detention by Customs officers. Such clearance shall not be construed as a certification of the legality of an importation under the laws or regulations of the United States.

(b) Clearance by the Director may be obtained only at designated ports (§ 14.12), at border ports (§ 14.16), at special ports (§ 14.19), or at a port where importation is authorized by a permit issued under subpart C of this part. Any wildlife released without the Director's clearance or clearance by Customs for the Director under authority of § 14.54 shall be returned forthwith to a port where clearance may be obtained pursuant to this subpart.

(c) To obtain clearance, the importer or his agent must make available to the Director:

(1) All shipping documents (including bills of lading, way-bills and packing list or invoices);

(2) All permits or other documents required by the laws or regulations of the United States; and

(3) All permits or other documents required by the laws or regulations of any foreign country.

§ 14.53 Refusal of clearance.

(a) The Director, or Customs officers acting under § 14.54, may refuse clearance of imported wildlife when there are reasonable grounds to believe that:

(1) A Federal law or regulation has been violated;

(2) The correct identity of the wildlife has not been established (in such cases the burden shall be upon the owner, importer, or consignee to establish such identity);

(3) Any permit or other documentation required to accompany such wildlife is not available or is not authentic; or

(4) The importer or his agent has filed an incorrect or incomplete declaration for importation as provided in § 14.61.

(b) If clearance of imported wildlife has been refused, the wildlife may, as authorized by law be:

(1) Seized if there are reasonable grounds to believe it is involved in a violation of Federal law;

(2) Exported by the owner, importer, or consignee at his request and expense;

(3) Held in storage or placed in a general order warehouse pursuant to Customs regulations at the expense of the importer;

(4) Abandoned under the provisions of Part 12 of this subchapter; or

(5) Released under such bond as may be required, subject to recall by the Service.

§ 14.54 Unavailability of Service officers.

(a) *Designated ports.* All wildlife arriving at a designated port must be cleared by the Director. However, if the Director is not available within a reasonable time, live wildlife may be inspected and cleared by Customs officers, subject to post-clearance investigation by the Director.

(b) *Special ports.* Wildlife lawfully imported at Canadian or Mexican border ports under § 14.16, or into Alaska, Puerto Rico, the Virgin Islands or Guam, under § 14.19 of this Part, may, if the Director is not available within a reasonable time, be inspected and cleared by Customs officers, subject to post-clearance investigation by the Director.

(c) *Permit imports.* Wildlife imported at a nondesignated port in accordance with the terms of a valid permit issued under subpart C of this Part, may, if the Director is not available within a reasonable time, be inspected

and cleared by Customs officers, subject to post-clearance investigation by the Director.

(d) *Personal baggage and household effects.* Wildlife lawfully imported at any port of entry under § 14.15 of this Part, may, if the Director is not available within a reasonable time, be inspected and cleared by Customs officers, subject to post-clearance investigation by the Director.

§ 14.55 Exceptions to clearance requirements.

Except for endangered or threatened wildlife, clearance shall not be required for importation of the following wildlife:

(a) Shellfish and fishery products as specified in § 14.21; or

(b) Marine mammals lawfully taken on the high seas by United States residents and imported directly into the United States.

Subpart F—Wildlife Declarations

§ 14.61 Import declaration requirements.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation of Fish or Wildlife (Form 3-177) signed by the importer or his agent shall be filed with the Director at the time and place where clearance under § 14.52 is requested, unless the wildlife is to be transshipped under bond to a different port for release from custody by Customs officers under 19 U.S.C. 1499, in which case the Form 3-177 must be filed with the District Director of Customs at that port before release from Customs custody. All information requested on the Form 3-177 shall be furnished, and the importer or his agent shall certify that the information furnished is complete and accurate to the best of his knowledge and belief.

§ 14.62 Exceptions to import declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23, a Declaration for Importation of Fish or Wildlife (Form 3-177) shall not be required to be filed for importation of the following:

(1) Shellfish and fishery products (as specified in § 14.21) imported for purposes of human or animal consumption, or which have been taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(2) Fish taken for recreational purposes in Canada or Mexico;

(3) Game mammals or birds from Canada or Mexico for which a Declaration for Free Entry of Game Mammals or Birds Killed by United States Residents (Customs Form 3315) has been filed;

(4) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except that a Form 3-177 will be required for raw or dressed furs; for raw, salted, or crusted hides or skins; and for game or game trophies where the exception in paragraph (a)(3) of this section does not apply; and

(5) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the household effects of persons moving their residence to the United States, except that a declaration will be required for raw or dressed furs; and for raw, salted, or crusted hides or skins.

(b) *General declaration for certain specimens.* Notwithstanding the provisions of § 14.61 of this subpart, scientists importing scientific specimens for public scientific institutions for taxonomic or faunal survey purposes are authorized to describe such imports in general terms, provided an amended declaration specifically describing such wildlife import is submitted within 180 days after the filing of the general declaration. Extensions to this 180-day period may be granted by the Director for cause.

§ 14.63 Export declaration requirement.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Exportation of Fish or Wildlife (Form 3-177) signed by the exporter or his agent shall be filed with the Director prior to export of any wildlife at the port of exportation as authorized in subpart B of this Part. All information requested on the Form 3-177 shall be furnished, and the exporter or his agent shall certify that the information furnished is complete and accurate to the best of his knowledge and belief.

§ 14.64 Exceptions to export declaration requirements.

Except for wildlife requiring a permit pursuant to Part 17, 21, or 23, a Declaration for Exportation of Fish or Wildlife (Form 3-177) shall not be required to be filed for exportation of the following:

(a) Shellfish and fishery products (as specified in § 14.21) exported for purposes of human or animal consumption or which have been taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Wildlife which is not intended for sale where the value of such wildlife is under $250; and

(c) Wildlife products or manufactured articles, including game trophies, which are not intended for sale and are worn as clothing or contained in accompanying personal baggage or are part of a shipment of the household effects of persons moving their residence from the United States.

Subpart G—(Reserved)

Subpart H—Marking Requirements

§ 14.81 Marking requirements.

Except as otherwise provided in this subpart, no person may ship, transport, carry, bring or convey any wildlife in interstate or foreign commerce unless the package or container in which such wildlife is contained has the name and address of the shipper and consignee and an accurate statement of the contents by species and numbers of each species of wildlife therein contained clearly and conspicuously marked on the outside thereof.

§ 14.82 Exceptions and alternatives to the marking requirement.

(a) *Shellfish and fishery products.* In the case of packages or containers holding shellfish or fishery products specified in § 14.21, the requirements of § 14.81 may be met (1) by marking on the outside of such package or container the name and address of the consignee and either the word "Fish" (or "Wildlife," as appropriate) or the generic name (such as salmon, tuna, or lobsters) in lieu of the scientific species name; and (2) by placing inside the package or container on the bill of lading, invoice, packing slip or other document the name and address of the shipper, a statement of the contents by scientific species name or generic name, and the number or other appropriate measure of quantity of each species contained therein, provided such document is readily available to the Director for inspection and copying.

(b) *Mink, chinchilla, silver fox, blue fox, rabbit, and nutria.* The requirements of § 14.81 do not apply to packages or containers holding mink, chinchilla, silver fox, blue fox, rabbit, or nutria that have been bred and born in captivity if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping document.

(c) *Furs, hides, or skins—interstate commerce.* The requirements of § 14.81 do not apply to packages or containers holding furs, hides or skins shipped, transported, carried, brought, or conveyed in interstate commerce if the names and addresses of the shipper and consignee are clearly and conspicuously marked on the outside thereof.

(d) *Symbol markings.* The requirements of § 14.81 do not apply to packages or containers shipped, transported, carried, brought, or conveyed in interstate or foreign commerce where such packages or containers are clearly marked with a symbol in accordance with the terms of a valid permit issued pursuant to § 14.83.

§ 14.83 Symbol marking permit.

(a) *General.* The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the use of an identification symbol in lieu of the marking required by § 14.81.

(b) *Application procedures.* Applications for symbol marking permits shall be submitted to the Director. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The estimated number and kinds of wildlife to be transported in interstate or foreign commerce, described by scientific and common names;

(2) Form in which transported, such as "raw skins," "fur garments," "pearl strands," or "fine leather goods;"

(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) A detailed statement of the reasons why the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(5) At the option of the applicant, a suggested symbol which is desired with the understanding that such suggested symbol may or may not be assigned at the discretion of the Director.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter B, permits to use symbol marking shall be subject to the following special conditions:

(1) The entire symbol must be clearly and conspicuously marked on the outside of each package;

(2) The symbol, together with other identifying numbers or characters, must appear on all shipping documents relating to the packages or containers, and on all declarations required by §§ 14.61 and 14.63; and

(3) The permittee shall, from the effective date of the permit, maintain complete and accurate records of all wildlife identified by the symbol which is actually shipped, transported, carried, brought, or conveyed in interstate or foreign commerce. The records shall include a general description of the form of the wildlife, the number of items, the common and scientific names, a description of the package or container, the method of shipment, the date and place of shipment, and the air waybill or bill of lading number. To the extent authorized by law, such records shall be open to inspection, auditing, or copying by the Director at any time during regular business hours.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Whether the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(2) The kind of wildlife involved and its place of origin.

(e) *Expiration of permits.* Any permit issued under this section shall expire on the date designated on the face of the permit. In no case shall any such permit be valid for more than 2 years from the date of issuance.

Subpart I—Import/Export Licenses

§ 14.91 License requirement.

(a) *Prohibition.* Except as otherwise authorized in this subpart, it is unlawful for any person to engage in business as an importer or exporter of wildlife without first having obtained a valid import/export license from the Director.

(b) *Definition.* As used in this subpart, the phrase "engage in business as an importer or exporter of wildlife" means to continuously devote, for the purpose of livelihood or profit, time, attention, labor and effort to any activity involving the importation or exportation of wildlife.

(c) *Certain persons required to be licensed.* The definition in paragraph (b) of this section includes, but is not limited to, persons who engage in the following activities:

(1) Persons importing or exporting live wildlife for trade, sale, or resale, such as animal dealers, animal brokers, pet dealers, and pet suppliers.

(2) Persons importing or exporting wildlife in the form of fur for tanning, manufacture, or sale, such as fur dealers, fur brokers, and fur manufacturers.

(3) Persons importing or exporting wildlife in the form of hides and skins for tanning, manufacture, or sale, such as hide and skin dealers, hide and skin brokers, leather dealers, and leather brokers.

(4) Persons importing or exporting live wildlife for purposes of medical or pharmaceutical research, such as laboratory suppliers, and medical, pharmaceutical, or scientific research institutions (including universities).

(5) Persons importing or exporting wildlife products (such as garments, bags, shoes, boots, jewelry, rugs, curios, etc.) for manufacture or sale, such as manufacturers, wholesalers, retailers, distributors, and brokers.

(6) Taxidermists who import or export wildlife in connection with the mounting, processing, or storage of trophies or specimens.

(7) Freight forwarders who handle wildlife being imported or exported.

§ 14.92 Exceptions to licensing requirement.

(a) *Certain wildlife.* Any person may engage in business as an importer or exporter of the following wildlife without procuring an import/export license:

(1) Shellfish or fishery products specified in § 14.21 which are not from endangered or threatened species listed in § 17.11 and which are imported or exported for human or animal consumption;

(2) Shellfish or fishery products specified in § 14.21 which are not from endangered or threatened species listed in § 17.11 and which have been taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(3) Mink, chinchilla, silver fox, blue fox, or rabbit, bred and born in captivity; and

(4) Animals, whether feral or nonferal, commonly considered domestic (such as cats, dogs, horses, donkeys, mules, cattle, sheep, goats, swine, turkeys, chickens, rock doves, and their domestic varieties, geese, and ducks), but not including any species of migratory birds as listed in § 10.13 of this subchapter.

(b) *Certain persons.* The following persons may engage in business as an importer or exporter of wildlife without procuring an import/export license if they maintain accurate records which fully and correctly disclose any import or export of wildlife and, upon verbal or written request, forthwith make such records available to the Director for examination, auditing, or copying.

(1) Common carriers;

(2) Customs brokers;

(3) Public scientific or educational institutions importing or exporting fish or wildlife;

(4) Public museums;

(5) Federal, State, or municipal game farms, parks, or zoos, or public zoological societies; and

(6) Circuses.

§ 14.93 License application procedure, conditions, and expiration.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, issue a license authorizing the applicant to engage in business as an importer or exporter of wildlife.

(b) *Application procedure.* Applications for import/export licenses shall be submitted to the appropriate Special Agent in Charge (see §13.11(b) of this subchapter). Each such application must contain the general information and certification required by §13.12(a) of this subchapter, plus the following additional information:

(1) A brief description of the nature of the applicant's business as it relates to the importation or exportation of fish or wildlife, e.g., "live animal dealer," "fur broker," "taxidermist," "retail department store," and "pet shop;"

(2) If the application is in the name of a business, a statement disclosing the name and address of all partners, or principal officers, and a copy of any corporate charter and bylaws.

(3) A statement of where books or records concerning fish or wildlife imports or exports will be kept;

(4) A statement of where inventories of fish or wildlife will be stored; and

(5) Name, address, and telephone number of the officer, manager, or other person upon whom service of process may be made or demand may be made for examination and copying of records or examination of wildlife inventories.

(c) *Additional license conditions.* In addition to the general conditions set forth in Part 13 of this subchapter B, import/export licenses shall be subject to the following special conditions:

(1) The licensee shall, from the effective date of the license, maintain complete and accurate records of all wildlife imports and exports. The records shall include a general description of the form of the wildlife, such as "live," "raw hides," or "fur garments;" the quantity of wildlife, in numbers, weight, or other appropriate measure; the common and scientific names; the country or place of origin of the wildlife, if known; the date and place of import or export; and any disposition of the wildlife;

(2) Licensees shall include and retain in their records copies of all permits required by the laws and regulations of the United States and any country of export or origin;

(3) Licensees shall maintain such books and records for a period of five years;

(4) Licensees shall, at all reasonable times upon notice by a duly authorized representative of the Director acting in accordance with applicable law, afford such representative access to his places of business, an opportunity to examine his inventory of imported wildlife and the records required to be kept under paragraph (c)(1) of this section, and an opportunity to copy such records;

(5) Licensees shall, upon written request of the Director, submit within 60 days of such request a report containing the information required to be maintained by paragraph (c)(1) of this section; and

(6) An import/export license is only permission to engage in business as an importer or exporter of wildlife. Such a license is in addition to, and does not supersede, any other requirement established by law for the importation or exportation of wildlife.

(d) *Expiration of license.* Any license issued under this section shall expire on the date designated on the face of the license. In no case shall any such license be valid for more than 2 years from the date of issuance.

NOTE.—It has been determined that this document is not an action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, an Environmental Impact Statement is not required.

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

Dated: March 17, 1978.

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

[FR Doc. 78-7927 Filed 3-24-78; 8:45 am]

Federal Register

MONDAY, MARCH 27, 1978
PART IV

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

PUGET SOUND

Tank Vessel Operations

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Subchapter P]

[CGD 78-041]

PUGET SOUND

Tank Vessel Operations

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering issuing regulations governing the operation of tank vessels in the Puget Sound area. This action is taken because on March 6, 1978, the U.S. Supreme Court declared several sections of the State of Washington Tanker Law concerning tanker operation in Puget Sound unconstitutional on the basis of Federal preemption of state law. The Coast Guard is studying the entire scope of tank vessel operation in the Puget Sound area in order to arrive at the best solution for protection against environmental harm resulting from vessel or structure damage, destruction, or loss, and is seeking comments to assist it in making a determination.

DATES: 1. Comments must be received on or before May 12, 1978. 2. Public Hearing: The Coast Guard will hold a public hearing on April 20-21, 1978, beginning at 9 a.m. in the north auditorium, 4th floor, Federal Building, 917 Second Avenue, Seattle, Wash.

ADDRESSES: Comments should be submitteed to Commandant (G-CMC/81), (CGD 78-041), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Tranportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 292-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written views, data, or arguments concerning this advance notice. Written comments whould include the docket number CGD 78-041) and the name and address of the person submitting the comment. All comments received before the expiration of the comment period will be considered before further action is taken.

Interested persons are invited to attend the hearing and present oral or written statements on these proposals. It is requested that anyone desiring to make comments notify Captain Greiner at least ten days before the scheduled date of the public hearing, and specify the approximate length of time needed for the presentation. Comments at the public hearing will normally be heard in the order the request to comment is received. It is urged that a written summary or copy of the oral presentation be included with the request.

Drafting Information

The principal persons involved in drafting this advance notice are: Commander Robert Janecek, Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

Background

The Coast Guard originally issued regulations for the Puget Sound Vessel Traffic Service on July 10, 1974 (39 FR 25430). Minor changes were made on June 9, 1977 (42 FR 29481). The Service was established because of congested vessel traffic and hazardous weather conditions.

The State of Washington Tanker Law (Chapter 125, Laws of Washington, 1975, First Extraordinary Session, Wash. Rev. Code § 88.16.170 et seq.) was adopted to regulate certain aspects of the design, size, and movement of tank vessels carrying oil in Puget Sound.

The United States Supreme Court on March 6, 1978, in *Ray* v. *Atlantic Richfield Co.* (No. 76-930) declared several provisions of the State of Washington Tanker Law unconstitutional based on Federal preemption of state law.

On March 14, 1978 (published in the Federal Register on March 23, 1978), the Secretary of Transportation issued an interim navigation rule prohibiting the operation of oil tankers in excess of 125,000 deadweight tons bound for a port or place in the United States in waters of the United States lying east of a straight line extending from Discovery Island Light to New Dungeness Light and to all points in the Puget Sound area north and south of these lights ("designated waters"). This interim rule, which is effective through September 9, 1978, was considered necessary to maintain the de facto level of protection of the navigable waters of Puget Sound and adjacent waters in the State of Washington, and the resources therein, until the possible issuance of additional regulations.

In this advance notice, the Coast Guard is soliciting comments and suggestions from interested parties concerning possible approaches the Coast Guard can take to continue and enhance the protection of the designated waters and vessels operating therein.

Factors To Be Considered by the Coast Guard

Section 102 of the Ports and Waterways Safety Act of 1972, (33 U.S.C. 1222), requires full consideration of the wide variety of interests which may be affected by the exercise of regulatory authority under the Act. In determining the need for, and the substance of, any rule or regulation the following factors must be considered—

(1) The scope and degree of the hazards;

(2) Vessel traffic characteristics including minimum interference with the flow of commercial traffic, traffic volume, the sizes and types of vessels, the usual nature of local cargoes, and similar factors;

(3) Port and waterway configurations and the differences in geographic, climatic, and other conditions and circumstances;

(4) Environmental factors;

(5) Economic impact and effects;

(6) Existing vessel traffic control systems, services, and schemes; and

(7) Local practices and customs, including voluntary arrangements and agreements within the maritime community.

Specific comments and information concerning these factors, as they apply to Puget Sound and adjacent waters are especially desired.

Possible Regulatory Approaches

The regulations under consideration would be applicable to tank vessels bound for a port or place in the United States in waters of the United States lying east of a straight line extending from Discovery Island Light to New Dungeness Light and to all points in the Puget Sound area north and south of these lights.

The Coast Guard is aware that various approaches may be taken in possible regulation of tank vessels. Several possible approaches are set out below. The Coast Guard solicitis comments on these approaches, but also welcomes comments and suggestions concerning any other reasonable alternatives including comments concerning the necessity for any regulatory actions at all. Comments are specifically requested on the possible benefits or adverse effects of these regulatory approaches, or on any alternatives being suggested.

The Coast Guard is considering the following as possible approaches:

1. Specifying times of entry into, movement within, or departure from the designated waters.

2. Limiting the size of tank vessels utilizing one or more of the following criteria:

(a) Gross tonnage.

(b) Deadweight tonnage.
(c) Length of vessels.
(d) Breadth of vessels.
(e) Tank size.
(f) Keel clearance.

3. Limiting the speed of tank vessels.

4. Issuing regulations based on the particular operating characteristics, or equipment of the vessel including the number and type of propellers, and the main and emergency propulsion, steering and navigational capabilities of the vessel.

5. Issuing regulations which restrict tank vessel operation during hazardous weather conditions or in hazardous areas.

6. Issuing requirements for tug assistance or tug escort for tank vessels.

7. Issuing regulations governing pilotage requirements.

8. Appraising possible vessel controls and/or requirements based upon specific routes to be taken by the vessels having in mind particular destinations.

Comments are particularly solicited concerning vessel size and its relation to maneuvering capabilities of the vessel; whether recommended limitations should be applied singularly or in combination with other criteria; and which areas within the designated waters are considered especially hazardous to navigation or environmentally sensitive.

(Sec. 104, Pub. L. 92-340, 86 Stat. 424 (33 U.S.C. 1224); 49 CFR 1.46(n)(4).)

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

MARCH 22, 1978.

[FR Doc. 78-7928 Filed 3-24-78; 8:45 am]