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(Revised as of January 1, 1978)

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Table of Effective Dates and Time Periods—September 1978

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
September 1	September 18	October 2	October 16	October 31	November 30
September 5	September 20	October 5	October 20	November 6	December 4
September 6	September 21	October 6	October 23	November 6	December 5
September 7	September 22	October 10	October 23	November 6	December 6
September 8	September 25	October 10	October 23	November 7	December 7
September 11	September 26	October 11	October 26	November 13	December 11
September 12	September 27	October 12	October 27	November 13	December 11
September 13	September 28	October 13	October 30	November 13	December 12
September 14	September 29	October 16	October 30	November 13	December 13
September 15	October 2	October 16	October 30	November 14	December 14
September 18	October 3	October 18	November 2	November 17	December 18
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September 20	October 5	October 20	November 6	November 20	December 19
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September 26	October 11	October 26	November 13	November 27	December 26
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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS
(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
EDA—Economic Development Administration
FTZB—Foreign-Trade Zones Board
ITA—Industry and Trade Administration
MA—Maritime Administration
MBEO—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DIS—Defense Investigative Service
DLA—Defense Logistics Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT

BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission
OHADOE—Hearings and Appeals Office, Energy Department

SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

AC—Aging Federal Council
ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
ESNC—Educational Statistics National Center
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office
SS—Secret Service

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
FCA—Farm Credit Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/OFR—Office of the Federal Register
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/OFR—Office of the Federal Register
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
MB—Metric Board
MWSC—Minimum Wage Study Commission
MWSC—Minimum Wage Study Commission
NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH—National Foundation for the Arts and the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board

OMB—Office of Management and Budget
OMB/FPPO—Federal Procurement Policy Office
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

rules and regulations

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

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

[1505-01]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977/1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1977 and 1978. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $400 domestic, $100 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1978):

Title	Price
1	$2.75
2 [Reserved]	
3	4.25
4	4.75
5	5.00
7 Parts:	
210-699	6.75
700-749	4.25
750-899	2.40
945-980	3.50
981-999	3.50
1000-1059	4.75
1060-1119	4.75
1120-1199	4.00
2853-end	4.00
8	3.50
9	6.00
12 Parts:	
1-299	8.25
300-end	6.75
13	4.75
14 Parts:	
1-59	5.75
1200-end	3.75
16 Parts:	
0-149	5.00
150-999	4.75
1000-end	5.25

CFR Unit (Rev. as of Apr. 1, 1977):

17	$6.75
18 Parts:	
1-149	4.25
150-end	4.00
19	5.75
20 Parts:	
01-399	3.25
400-499	5.00
500-end	4.00
21 Parts:	
1-99	3.25
100-199	4.75
200-299	2.10
300-499	5.00
500-599	4.00
600-1299	3.50
1300-end	4.25
22	4.50
23	5.50
24 Parts:	
0-499	5.00
500-end	5.25
25	4.50
26 Parts:	
1 (§§ 1.0-1.169)	4.75
1 (§§ 1.170-1.300)	4.00
1 (§§ 1.301-1.400)	3.75
1 (§§ 1.401-1.500)	4.00
1 (§§ 1.501-1.640)	4.00
1 (§§ 1.641-1.850)	4.35
1 (§§ 1.851-1.1200)	5.25
1 (§§ 1.1201-end)	6.75
2-29	4.50
30-39	4.35
40-299	4.50
300-499	4.35
600-end	2.40
27	7.00

CFR Unit (Rev. as of July 1, 1977):

28	$4.25
29 Parts:	
0-499	5.75
500-1899	6.00
1900-1919	6.00
1920-end	4.50
30	6.00
31	5.75
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
40-399	6.25
400-589	5.00
590-699	4.00
700-799	8.25
800-999	5.75
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
36	4.50
37	3.00
38	6.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
3-6	5.50
7	2.75
8	2.30
9 (Rev. 9/26/77)	5.00
10-17	4.25
19-100	4.50
101-end	5.75
CFR INDEX & finding aids	4.75

CFR Unit (Rev. as of Oct. 1, 1977):

42 Parts:	
1-399	$5.50
400-end	4.75
43 Parts:	
1-999	4.00
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	4.25
100-149	5.50
150-199	4.75
200-499	3.50
500-end	6.00
46 Parts:	
1-29	3.00
30-40	3.25
41-69	4.50
70-89	3.25
90-109	3.00
110-139	3.00
140-165	4.75
166-199	3.75
200-end	6.00
47 Parts:	
0-19	5.75
20-69	5.25
70-79	*5.00
80-end	6.00
48 [Reserved]	
49 Parts:	
1-99	3.00
100-199	8.25
200-999	8.75
1000-1199	4.50
1200-1299	*8.00
1300-end	4.25
50	5.50

*Previously announced prices of $4.75 and $8.75 for these volumes, listed in the FEDERAL REGISTER of July 1, 1978, were in error.

[6820-27]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

CFR Correction

In title 5 of the Code of Federal Regulations, revised as of January 1, 1978, Part 213 is corrected as follows:

1. In § 213.3309(a)(1), appearing on page 64, the word "each" appearing as the first word on the fifth line is deleted.

2. In § 213.3310(a)(4), appearing on page 64, the word "Four" is changed to read "Two".

3. In § 213.3322(a), appearing on page 73, the words "of eight" is inserted between the words "each" and "Commissioner" and the letter "s" is added to the word "Commissioner". The phrase now reads: "each of eight Commissioners".

4. In § 213.3354(k), appearing on page 78, the word "(Stenography)" is inserted following the word "Secretary".

5. In § 213.3355(a), appearing on page 78, the word "of" is inserted following the word "each".

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Commerce, Department of Labor, and Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Commerce, Department of Labor, and Department of Energy because they are confidential in nature.

EFFECTIVE DATE: August 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR §§ 213.3314(a)(9), 213.3315(a) (8) and (22) are amended and § 213.3331(o)(4) is added as set out below:

§ 213.3314 Department of Commerce.

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

(9) One congressional liaison specialist, seven congressional liasion officers, and three confidential legislative assistants.

* * * * *

§ 213.3315 Department of Labor.

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

(8) Eight assistants to the Deputy Under Secretary for Legislation and Intergovernmental Relations. * * *

(22) Five special assistants to the Assistant Secretary for Occupational Safety and Health Administration.

* * * * *

§ 213.3331 Department of Energy.

* * * * *

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

(4) One staff assistant to the Assistant Secretary.

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

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

[FR Doc. 78-24744 Filed 8-31-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency, ACTION, and Agency for International Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Environmental Protection Agency, ACTION, and the Agency for International Development because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: August 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3318(a)(1) is amended and 213.3359(l) and 213.3368(d) are added as set out below:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.*

(l) Nine special assistants and one special assistant (political coordination) to the Administrator.

* * * * *

§ 213.3359 ACTION.

* * * * *

(l) One public information specialist and two staff assistants to the Deputy Director.

* * * * *

§ 213.3368 Agency for International Development.

* * * * *

(d) *Office of the Assistant Administrator of the Bureau for Private and Development Cooperation.* (1) One special assistant to the Assistant Administrator.

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

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-24743 Filed 8-31-78; 8:45 am]

[1505-01]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

Racial Identification

Correction

In FR Doc. 78-23947 appearing on page 37980 in the issue of Friday, August 25, 1978, in the 1st column in the "SUMMARY," the 10th and 11th lines should read, "* * * price meals served under the National School Lunch Program and School Breakfast Program. State agencies may * * *.".

In the middle column, under "SUPPLEMENTARY INFORMATION," the third paragraph, the fifth line should read, "* * * an ineffective data collection method.".

[3410-30]

[Amdt. 41]

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

Miscellaneous Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On June 20, 1978, a proposed amendment revising the regulations governing the food donation program was published in the FEDERAL REGISTER (43 FR 26447-26449) to: (1) Update the quoted provisions of the National School Lunch and Child Nutrition Amendments of 1977 (Pub. L. 95-166, 91 Stat. 1325), and (2), as required by that legislation, provide that schools may refuse not more than 20 percent of the USDA-donated foods offered by State distributing agencies for nonprofit lunch programs and to receive in lieu of those foods refused other available donated foods. In an effort to bring about greater respon-

siveness to schools' donated-food preferences, the proposed amendment is being adopted with minor changes.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Arvid E. Dopson, Acting Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8371.

SUPPLEMENTARY INFORMATION: Section 6 of the National School Lunch Act, as amended, 42 U.S.C. 1755, requires the Secretary of Agriculture to make available to States for distribution to schools conducting nonprofit lunch programs under the act a national average value of food commodities, or—where applicable—cash in lieu thereof, of not less than 10 cents for each lunch served. This amount is subject to adjustment each year to reflect changes in the series for food away from home of the consumer price index published by the Bureau of Labor Statistics of the Department of Labor. Section 6(a) of the act was amended by section 7 of Pub. L. 95-166, approved November 10, 1977, to permit any school to refuse not more than 20 percent of the donated foods offered for lunches during any school year and to receive in lieu of the refused foods, other foods, to the extent that other foods are available to the State during that year.

These amendments require each State agency responsible for USDA food distribution to schools to notify the authorities who administer nonprofit lunch programs in the schools of their right to refuse offered commodities and to receive other foods that will be available during the school year. Notification shall be given either by means of a letter to be sent at least annually or by an amendment to the commodity distribution agreements which recipient agencies are required to enter into with the distributing agency. The amendments also require both distributing agencies and school food authorities to document commodity refusals and to maintain records of refusals on the same basis as other program records.

Section 19 of Pub. L. 95-166 also amended sections 6(e) and 17 of the National School Lunch Act to delete references to "fiscal year" and to substitute therefor "school year". In addition, section 2 of Pub. L. 95-166 revised section 13(g) of the act, and redesignated it as section 13(h). Implementing changes are made by these amendments.

Analysis of Comments

Interested persons and groups were given 30 days in which to submit written comments, suggestions or objections regarding the proposed amendments. A total of 37 comments were received, of which only two were entirely favorable. Both favorable comments were from school district food service directors who believe the proposal would result in greater flexibility and better utilization of donated foods in the school lunch program.

Comments objecting to the proposal in one or more respects represented the views of 32 State agencies responsible for school food distribution and three school districts. Of the State agencies, 19 were departments of education or public instruction and the remainder were agencies with another primary responsibility, such as agriculture, public welfare, or general services. The issues most frequently raised are discussed in the following paragraphs.

Recordkeeping Requirements

Twenty-two respondents expressed concern about the requirement to be added to § 250.6(q) that accurate and complete records be maintained with respect to amounts and value of commodities refused by school food authorities. Given a school's option to refuse up to 20 percent of the value of offered foods and to receive others, if available—as mandated by Pub. L. 95-166—the Department sees no alternative to documenting the refusals at both the distributing agency and school food authority levels. Because the section to be revised already requires distributing agencies and recipient agencies to maintain accurate and complete records of commodity receipts, disposal, and inventories, the added recordkeeping burden should not be excessive. This requirement is, therefore, adopted without change.

State Administrative Expense Funds

Because of administrative requirements that will result from implementing the 20 percent refusal provision, 17 respondents anticipated the need for additional staffing or upgraded positions in distributing agencies and requested the Department to provide funds for this purpose. Section 14 of Pub. L. 95-166, which amends section 7 of the Child Nutrition Act of 1966, specified that a portion of the funds paid under that section 7 may be used for administrative expenses connected with the food distribution program. State educational agencies, therefore, now have express authority to use part of the payments allocated in accordance with the regulations for State administrative expense funds (7 CFR Part 235) to assist in implementing this provision. Furthermore, paragraphs (c) and (d) of § 235.6 already permit State educational agencies to make payments of up to 10 percent of the total amount of the State administrative expense funds allocated to them to distributing agencies responsible for making donated foods available to child nutrition programs when the distributing agencies are other than educational agencies. Such payments may be used by the distributing agencies to employ additional personnel for provision of supevisory and technical assistance to school food authorities.

Advance Notice of Commodity Availability

Comments from 13 respondents asked that the Department give sufficient advance notice of commodity purchases to permit distributing agencies to survey all school food authorities before submitting food requisitions to FNS regional offices. Several of the larger States have more than 1,000 school districts which must be contacted. Distributing agencies believe they need a minimum of 30 days' lead time to obtain information from schools, plus 2 weeks for submission of food requisitions. As a result of an earlier recommendation by distributing agencies, the Department has implemented an early survey procedure whereby States are given at least 1 month's notice of the availability of fruits, vegetables, meats and poultry to be purchased for school feeding programs. An analysis of recent offerings of these items indicated that the shortest lead time given States to submit orders was 38 days; the longest was 55 days. The Department will continue to follow this procedure. Advance notice of traditional surplus items in the Commodity Credit Corporation inventory presents no problem, since these foods are available at all times. Distributing agencies are encouraged to order these items on a monthly basis.

Timing of Refusals

Eleven respondents commented on the fact that the proposed wording of § 250.4(h) suggested that a school food authority could refuse its share of commodities at the time of delivery, even if it had indicated acceptance at the time the commodities were offered. This issue was of particular concern among the State agencies which lack warehousing facilities and provide a system of railcar deliveries instead. These States anticipate serious problems in reallocating foods refused at rail sidings if such an interpretation is permitted. The Department agrees that the 20 percent refusal option should apply only when exercised at the time the offer is made to the

school food authority, and has revised § 250.4(h) to make this clear.

PURCHASE OF ADDITIONAL FOODS

Several respondents anticipated that school food authorities would reject less desirable or difficult-to-use commodities in favor of additional quantities of ground beef, frozen poultry, and canned fruit and vegetables if these items were available in sufficient supply. A question either implied or directly asked in 11 responses was whether the Department would purchase additional foods in order to satisfy requests for replacement of the value of refused foods. USDA will purchase no additional foods beyond the annually programed level of assistance to each State. If a school food authority refuses foods pursuant to section 6(a) of the act, as amended, selection of alternates must be made from items that will be available to the State during the school year.

BONUS COMMODITIES

Nine respondents asked what effect a school food authority's receipt of so-called bonus commodities would have on its 20 percent refusal option. Bonus commodities are those acquired by the Commodity Credit Corporation under price-support operations which are accepted by a State over and above its entitlement for foods available under section 416 of the Agricultural Act of 1949. A part of each State's entitlement is its pro-rata share of the planned national distribution of section 416 foods. Such foods, when accepted in addition to the State's entitlement, are considered as a bonus because they are not counted toward meeting the level of commodity assistance which the Department is required to provide to States under section 6(e) of the National School Lunch Act. The value of bonus commodities accepted by school food authorities would not serve as compensation for foods refused by them under the 20-percent provision. To the extent that foods other than bonus items are available, they should be offered as replacement for items refused under the new provision.

CASH IN LIEU OF COMMODITIES

Six inquiries concerned the effect of school food authorities' refusals of commodities under these amendments upon a State's entitlement for cash in lieu of commodities. Section 6(b) of the National School Lunch Act requires the Secretary of Agriculture to make an estimate not later than May 15 of each school year of the value of foods to be delivered to States during the school year for use in lunch programs. If the estimated value is less than the level of commodity assistance required under section 6(e) of the act, cash payments equal to the difference in the total programed value and the total required value for each State must be made to the State agency which administers the school lunch program not later than June 15. Notwithstanding this provision for cash in lieu of commodities, section 6(e) of the act requires that not less than 75 percent of the mandated level of commodity assistance provided to States for school lunches shall be in the form of actual commodities. In the event that a State receives cash for a commodity shortfall, section 6(b) provides that the State agency shall promptly and equitably disburse the funds to schools for the purchase of foods for their food service programs. School food authorities which have refused offered commodities and have not accepted other available commodities in lieu thereof would have no greater claim to cash disbursements than other schools.

REFUSAL OF COMMODITIES

Several respondents pointed out that schools should always have the option of refusing foods that cannot be used effectively. Section 250.6(f) of the regulations requires that commodities shall be requested and distributed only in quantities that can be used without waste. In addition, schools have traditionally been able to refuse foods which do not satisfy religious, ethnic, or cultural preferences to children served. Only the provision added by Pub. L. 95-166 for refusal of not more than 20 percent of the value of commodities offered during the school year and replacement with other available commodities in lieu thereof is new. In the proposed rule, however, § 250.4(h) implied that up to 20 percent—but not more—of the total value of offered foods may be refused. That section has been revised to make it clear that a school food authority may refuse any amount of offered foods. A provision has been added to indicate that not more than 20 percent of the value of foods offered to a school food authority for lunches during the school year shall be subject to replacement with other available foods except when replacement of additional amounts refused is a practicable distribution alternative.

NEED FOR FURTHER GUIDELINES

Although only three respondents specifically requested the Department to issue more detailed guidelines on the 20-percent refusal provision, it is obvious from the variety of comments and questions elicited by the proposal that the Food and Nutrition Service should supplement these amendments with a procedural instruction.

Also, paragraph (a) of § 250.8 is being altered to include "school food authority" under the classification of eligible recipient agencies. This alteration was not part of the proposed regulations due to an oversight. We have determined that this is necessary to meet the requirement of the regulations which alters the definition of recipient agencies under § 1250.3 (n-3). We do not believe this amendment establishes any major policy change.

It is necessary that this rule become effective at the earliest possible date because schools throughout the Nation are opening for the current school year, and schools and school food authorities are already making commitments with respect to the procurement of foods. By making this rule effective September 15, 1978, those agencies will be able to participate in this food donation program on an ongoing and consistent basis throughout the school year. Therefore, for good cause, and because making these amended rules effective September 15, 1978, is in the public interest, the 30 days notice requirement before a rule may be made effective is waived.

Accordingly, the food donation regulations are amended as follows:

1. In § 250.1(b)(6), the following sentence is added after the end of the quoted provisions of section 6(a) of the National School Lunch Act as amended, and before the final three asterisks:

> Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year.

2. Also in § 250.1(b)(6), the quoted provisions of section 6(e) of the National School Lunch Act, as amended, are revised by striking out "fiscal" the second and third time that word appears and inserting in lieu thereof the word "school".

3. In § 250.1(b)(18), the quoted provisions of section 17(e) of the National School Lunch Act, as amended, are revised by striking out "fiscal" wherever it appears and inserting in lieu thereof the word "school".

4. In § 250.1, paragraphs (b) (13) and (17) are also revised, as follows:

§ 250.1 General purpose and scope.

* * * * *

(b) *Legislation.* * * *

(13) Section 13(h) of the National School Lunch Act, as amended, which reads in part as follows:

* * * The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of

the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

* * * * *

(17) Section 14 of the National School Lunch Act, as amended (hereinafter referred to as "section 14"), which reads in part as follows:

(a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1982, shall—

(1) Use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, for donation to maintain the annually programed level of assistance for programs carried on under this act, the Child Nutrition Act of 1966, and title VII of the Older Americans Act of 1965; and

(2) If stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045f(a)(4)) or for cash payments in lieu of such donations under section 707(d)(1) or such act (42 U.S.C. 3045f(d)(1)). There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

* * * * *

5. In § 250.3, the definition of the term "recipient agencies" in paragraph (j) is amended by inserting "school food authorities," before "schools"; and new paragraphs (n-3), (n-4), and (n-5) are added, as follows:

§ 250.3 Definitions.

* * * * *

(n-3) "School food authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a nonprofit lunch program therein.

(n-4) "School year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

(n-5) "Fiscal year" means the period of 12 months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

* * * * *

6. In § 250.4, paragraphs (b)(2) and (b)(3) are amended by deleting the word "fiscal" the second time it appears in each paragraph and inserting in lieu thereof the word "school"; paragraph (b)(5) is revised; and a new paragraph (h) is added, as follows:

§ 250.4 Availability of commodities.

* * * * *

(b) *Quantities.* * * *

(5) The value of commodities to be distributed to schools, nonresidential child care institutions, and nutrition programs for the elderly, or, where applicable, the amount of cash payments to be made in lieu of commodities, shall be adjusted on an annual basis to reflect changes in the series for food away from home of the consumer price index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustments shall be computed to the nearest one-fourth cent and shall be made effective as of the beginning of each school year for schools and nonresidential child care institutions and as of the beginning of each fiscal year for nutrition programs for the elderly.

* * * * *

(h) *Refusal of commodities by school food authorities.* Any school food authority participating in food service programs under the National School Lunch Act, as amended, may refuse at the time they are offered commodities and other foods offered for delivery for lunches in any school year if such commodities cannot be used effectively. If the school food authority so refuses, it may receive in lieu of the refused commodities, other commodities to the extent other commodities are available to the State during the school year: *Provided, however,* That not more than 20 percent of the value of the commodities offered to a school food authority for lunches during the school year shall be subject to replacement with other available commodities unless replacement based on refusals of more than 20 percent of such value is feasible and practical.

7. In § 250.6, a new paragraph (d-1) is added, and a new sentence is inserted after the third sentence in paragraph (q), as follows:

§ 250.6 Obligations of distributing agencies.

* * * * *

(d-1) *Distribution to schools.* Prior to making distribution to schools, distributing agencies shall notify each school food authority of its right to refuse delivery of not more than 20 percent of the total value of donated foods offered to it by such agencies for use in nonprofit lunch programs in any school year and to receive other commodities, if available, in lieu of those refused, in accordance with § 250.4(h). Notification of commodity refusal rights shall be provided for the school year beginning July 1, 1978 by means of a letter to be sent to each school food authority no later than September 15, 1978. For subsequent school years, such notification shall be provided either by an addendum to the agreement required by paragraph (b) of this section or by a letter to be sent to each school food authority prior to the beginning of each school year.

* * * * *

(q) *Records.* * * * Distributing agencies shall maintain accurate and complete records with respect to amounts and value of commodities refused by school food authorities in accordance with § 250.4(h) and shall require that school food authorities also maintain such records of refusals. * * *

* * * * *

8. In § 250.8 paragraph (a) is amended to read as follows:

§ 250.8 Eligible recipient agencies.

(a) Schools or school food authorities which participate in the national school lunch program under part 210 of this chapter or the school breakfast program under part 220 of this chapter are eligible to receive commodities under section 416, section 32, section 709, section 6, and section 14. Commodity-only schools or school food authorities responsible for the operation of school lunch programs of at least one or more commodity-only schools are eligible to receive commodities under section 416, section 32, section 709, and section 14. Schools or school food authorities receiving commodities under this part may use such foods for the purpose of training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.

* * * * *

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107. The reporting and/or recordkeeping requirements contained herein have been

approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Program No. 10.550.)

Dated: August 29, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-24718 Filed 8-31-78; 8:45 am]

[3410-30]

[Amdt No. 134]

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the Department's regulatory authority for conducting demonstration, research, and evaluation projects. The Food Stamp Act of 1977 authorizes the Secretary to undertake such projects for the purposes of increasing the efficiency of program administration and improving the delivery of food stamp benefits. This rule further sets forth the conditions under which demonstration, research, and evaluation projects will be operated.

EFFECTIVE DATE: Part 282 takes effect on September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition, USDA, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On May 2, 1978, the Department published a proposed rule to amend parts 271, 272, 273, and 274 of the food stamp program regulations and to add new parts 278, 279, and 282. The Department intends to publish final rules for all of those parts during September 1978. Further delay of these demonstration, research, and evaluation project regulations, simply to await the massive publication of final food stamp program rules later this month, is unnecessary. These regulations, representing a discrete and separable part receiving relatively little comment, were essentially unchanged by the comment analysis. Moreover, for reasons set forth in the preamble to 282.11, publication on this date provides an opportunity to conduct a useful and timely demonstration project.

Most comments relating to this part pertained to a specific project, such as the workfare demonstration project, and will be considered during subsequent rulemaking regarding the relevant project. Under the proposed rules, the Secretary would determine those areas of program operations for which demonstration, research, or evaluation efforts would be focused. Two commenters opposed that approach since it would restrict all project initiation to the Federal level, eliminating public input regarding areas needing project analysis. The commenters noted that State and local food stamp agencies should be allowed to submit suggestions for potential projects because of their experience in the administration of the program. The Department agrees that this experience and expertise should be tapped. Therefore, language has been added to encourage such agencies, as well as other interested parties, to submit ideas for consideration. However, to avoid needless effort, detailed project proposals should not be developed until the Department solicits proposals for project operations.

The Department also proposed that specific project proposals be reviewed by a panel consisting of appropriate FNS and departmental representatives, including representatives from other Departments and agencies, as needed. Advocacy groups, however, stressed the need to provide food stamp participants an opportunity to be involved in the process of considering project proposals. This would, it was argued, provide useful public input into projects which could directly affect the public and might also result in a more balanced review panel. However, preopertional rulemaking procedures for demonstration projects require that where appropriate, proposed rulemaking be published in the FEDERAL REGISTER before any project can be implemented. The project proposal must set forth specific operational procedures, analyze potential impacts, and list statutory or regulatory provisions to be waived. As required under the Administrative Procedure Act, except where impractical or contrary to the public interest (5 U.S.C. 553(b)(3)(B)), careful consideration will be given to comments from the public. Furthermore, as required by the Food Stamp act of 1977, no project will be undertaken that would further restrict the income or resource standards or benefit levels established by that Act. The Department believes that the procedures discussed above provide the food stamp population and other affected parties an opportunity to analyze and criticize proposed projects. Because of this opportunity for public input, and the statutory prohibition on lowering benefits, the Department has decided to retain the proposed procedures for review and approval of demonstration, research and evaluation projects.

One commenter urged that project results should be available to the public. Project findings may be obtained, pursuant to the Freedom of Information Act, by writing to the Food and Nutrition Service, USDA, Washington, D.C. 20250.

Another commenter was concerned that the Department, in awarding grants and contracts, did not allow sufficient flexibility to account for any additional costs which might be needed to successfully complete a project. As proposed, the Department would pay all costs up to the level set forth in a contract or grant. The Department currently allows for additional funding under Federal grant and contracting procedures. These procedures would apply to grants and contracts made under these regulations.

A new part 282 is added and reads as follows:

Sec.
282.1 Legislative authority.
282.2 Project initiation.
282.3 Eligibility.
282.4 Approval of proposals.
282.5 Preoperational rulemaking procedures for demonstration projects.
282.6 Federal financial participation.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 282.1 Legislative authority.

(a) *Demonstration projects.* Demonstration projects are those authorized by section 17(b)(1) of the act which states in part: The Secretary is authorized to conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects (hereafter called demonstration projects) designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households. The secretary is further authorized to waive all or part of the requirements of the act and implementing regulations to the degree necessary to conduct such projects, except that no project may be undertaken which would lower or further restrict the established income and resource standards or benefits levels.

(b) *Research projects.* Research projects are those authorized by section 17(a) of the act which states: The Secretary may, by way of making contracts with or grants to public or private organizations or agencies, undertake research that will help improve the administration and effectiveness of the food stamp program in delivering nutrition related benefits.

(c) *Evaluation projects.* Evaluation projects are those authorized by section 17(c) of the act which states in

part: The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the food stamp program in achieving its stated objectives.

§ 282.2 Project initiation.

The Secretary shall determine those areas of program operations which require demonstration, research, or evaluation efforts. In making these determinations, the Secretary shall consider suggestions submitted by State and local agencies and other interested parties. The Secretary shall, as appropriate, seek proposals for specific types of demonstration projects through either publication of a notice of intent in the FEDERAL REGISTER or in accordance with procedures prescribed in the Federal procurement regulations (41 CFR, Ch. 1).

§ 282.3 Eligibility.

States or public or other nonprofit agencies or organizations or individuals are eligible for grants. States or public or private agencies or organizations or individuals are eligible for contracts.

§ 282.4 Approval of proposals.

(a) *Federal procedures.* (1) proposals for demonstration, research or evaluation projects shall be reviewed by a panel consisting of appropriate FNS and departmental representatives.

(2) Representatives from other Departments and agencies may be invited to participate in proposal review where proposed projects could affect their programs.

(3) Proposals shall be ranked based on the criteria established in paragraph (b) of this section.

(b) *Approval criteria.* (1) Proposals shall be reviewed for responsiveness to the specific requirements contained in the notice of intent or request for proposal.

(2) In addition, proposals will be evaluated according to the following general criteria:

(i) The conceptual development and clarity of measurable objectives.

(ii) Probable effectiveness of the proposal to achieve the project objectives based on:

(A) A complete description of the purpose; hypotheses; demonstration, research, or evaluation design; and plans for implementation;

(B) The adequacy of the work plan, indicating tasks, scheduling, and methodology; and

(C) A technical evaluation plan consistent with the objectives stated.

(iii) The capability of the applicant to conduct the project based on:

(A) A description of the qualifications of staff;

(B) Availability of necessary facilities, staff, and other resources;

(C) Administrative and supervisory capacity; and

(D) Knowledge of or previous experience in conducting demonstration, research, or evaluation projects.

(iv) The projected cost of the project.

(v) For demonstration projects, potential benefits in relation to projected costs and potential nationwide application.

(vi) The relationship of the proposal to other similar demonstration, research, or evaluation efforts.

§ 282.5 Preoperational rulemaking procedures for demonstration projects.

Prior to the initiation of a demonstration project FNS shall publish proposed regulations in the FEDERAL REGISTER, if the proposal will likely have significant impact on the public. The regulations shall set forth the specific operational procedures for the demonstration project and the provisions of the act and regulations which shall be waived. All public comments received shall be considered and final regulations published prior to actual project operation.

§ 282.6 Federal financial participation.

(a) *Level of funding.*—(1) *Grant awards.* FNS shall pay all costs up to the level established in the grant award. When a demonstration project involves an area of ongoing State agency administrative responsibility, as established in § 271.4(a), FNS may pay up to 100 percent only of those administrative costs which exceed those usual and customary to program operations.

(2) *Contracts.* FNS shall pay all costs as established in the terms and conditions of the contract.

(3) *Additional funding.* The awarding of any funding for additional costs incurred when necessary to the successful completion of a project shall be subject to existing Federal grant and contracting procedures.

(b) *Limitations.* Federal financial participation shall be available to demonstration, research, and evaluation projects only for:

(1) Those activities and projects awarded by FNS. Funds shall not be transferred from one project to another;

(2) Those costs specified in the grant or contract up to the amount approved in the grant or contract; and

(3) Costs incurred during the project, as established in the grant or contract. Time extensions regarding the project may be granted where sufficient justification has been submitted to and approved by FNS.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: August 30, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-24759 Filed 8-31-78; 8:45 am]

[3410-30]

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the procedures for conducting a demonstration project, as authorized under subsection 17(b)(1) of the Food Stamp Act of 1977 (the Act), involving the State administration of the food stamp program for recipients of Supplemental Security Income (SSI) [1] in the State of California. This notice responds to a project proposal submitted by the California Department of Social Services and received by this Department on July 31, 1978.[2] On August 16, 1978, the Department formally advised the California State agency that certain modifications were necessary prior to approval of the project proposal. Those modifications are incorporated into this final rule.

This project will test program changes designed to increase the efficiency of the food stamp program and improve the delivery of benefits to eligible aged, blind, and disabled persons who receive SSI benefits. The project is also designed to avert the potential for massive administrative dislocations that could result from the sudden resumption of food stamp eligibility for about one-half million SSI recipients in California.

The core of this project entails the implementation, through use of computer data and centralized certification and issuance functions, of fundamental aspects of the Food Stamp Act of 1977. Statutory provisions to be implemented include the elimination of the purchase requirement, the poverty line net income limit, the termination of categorical eligibility for SSI recipi-

[1] Subchapter XVI, Social Security Act (42 U.S.C. 1381, et seq.), contains the statutory provisions for "Supplemental Security Income for Aged, Blind, and Disabled."

[2] The California project request is available for public inspection and copying at the offices of the Food and Nutrition Service, USDA, Room 658, 500 12th Street, Washington, D.C. 20250.

ents, and the replacement of an array of itemized deductions with a smaller number of more standardized deductions. In addition, waivers to the definition of a household and the resource limits established in the act will be made to achieve greater administrative efficiencies and allow the project to operate.

These procedures should allow the State of California to accomplish the conversion of these hundreds of thousands of persons to the food stamp program, while alleviating the application and participation problems experienced by aged, blind, and disabled SSI participants and expediting certification and computation of benefit levels. Substantial reductions in administrative and program costs, resulting from the use of centralized certification and issuance functions and the reliance on stored data, are expected. Such cost savings will be measured. Participation rates will also be carefully reviewed to determine the impact on participation of eliminating the need for SSI recipients to make a separate trip to the food stamp office to apply for food stamps and to a food stamp issuance point to obtain coupons.

DATES: Comments should be received on or before October 2, 1978.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Room 758, 500 12th Street, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: States are allowed, pursuant to Pub. L. 93-233 (42 U.S.C. 1382(e)), as amended,[3] to provide SSI recipients the bonus value of their food stamp allotment in cash, in lieu of coupons, by increasing the SSI grant award. Currently, California is one of three States that is in such "cash-out" status. However, the Department of Health, Education, and Welfare (HEW) has determined that beginning September 1, 1978, California will no longer be a cash-out State. Hence, California recipients of SSI will become eligible to apply for participation in the food stamp program in California.

There are approximately 600,000 SSI recipients in California. Under program rules now in effect, all such recipients who are not institutionalized, and who live alone or solely with other SSI recipients, would become automatically eligible for food stamps. Under normal procedures, all such recipients would go to local welfare offices and apply for stamps. Each case would have to be individually determined, with benefits based on the household's income level and itemized deductions.

This would present serious difficulties both in administering the food stamp program and in delivering benefits to these persons. Even in normal circumstances, the sudden eligibility of hundreds of thousands of persons for food stamps on a single date would pose severe difficulties. The volume of new applicants could overwhelm local offices with inquiries and applications, as well as needs for special treatment because of blindness or other incapacities. Current program operations could be significantly hampered, slowing the normal delivery of benefits to thousands of other needy households. Under current regulations (7 CFR 271.4), State agencies are required to approve or deny food stamp applications within 30 days of receipt. Failure to meet the 30-day processing standard, caused by an influx of new applicants, would require California to compute and provide retroactive benefits to affected households, further increasing the current workload.

The imminent publication of final regulations to implement the eligibility and benefit provisions of the new Food Stamp Act makes the situation even more difficult. Each of the new SSI households would have to be certified under the current program rules on or after September 1, only to have their cases reopened and recomputed when the new rules take effect. This would require local offices to process several hundred thousand new cases twice, in only a matter of months, despite the fact that SSI recipients generally have stable incomes and are normally certified for a far longer period of time. These additional burdens, imposed at a time when all available manpower is necessary to assure an accurate transition to new food stamp rules, could disrupt efficient implementation of the new act and generate increased errors in converting households to new program rules.

Moreover, under the act, nearly all SSI couples in California will be ineligible for food stamps because of the high payments California provides to couples. These persons would have to be certified for food stamps in September only to be removed when the new rules take effect.

While the introduction of this group of persons into the food stamp program poses potential serious problems, it also presents a major opportunity to test an alternative delivery system. The response of SSI recipients, and the administrative functions and costs involved, can be discretely identified and studied.

The need for possible alternative systems for delivering food stamp benefits to SSI recipients has been identified in congressional hearings and elsewhere. Many State and local administrators and community groups feel that the aged, blind, and disabled experience substantial problems in participating in the food stamp Program. (See the House Committee on Agriculture Report on the Food Stamp Act of 1977, H.R. 95-464.) Rules which appear complex and confusing, the lack of special application procedures for the blind and disabled, and the lack of transportation have been viewed as major problems for this group. Moreover, the House report indicates that the welfare stigma associated with visible forms of public assistance, such as food stamps, has been perceived as making needy persons less willing to apply for coupons.

In order to test an alternative system for SSI recipients, the Secretary of Agriculture, under the authority of subsection 17(b)(1) of the Food Stamp Act of 1977, approves this demonstration project. Under the project, California SSI recipients will be certified as separate households and provided the appropriate food stamp allotments using these project rules. Other persons living in the same household will be eligible to apply for food stamp benefits, as a separate household, under normal program rules. All processing for certification and issuance will be handled by a centralized source; no client contact with local county welfare agencies will be necessary.

The Department shall examine the initial operation of this project to determine the time frame necessary to collect adequate data and provide an adequate test and review of administrative aspects of the project. The expiration dates for the statutory waivers noted in this rulemaking shall be published in a subsequent departmental notice. Participant households will receive sufficient advance notice regarding the recertification procedures to insure a smooth project termination.

In addition, the certification and issuance process will be accomplished through the use of a simplified food stamp application and a centralized, automated system. The income deductions and exclusions; OMB income poverty guidelines; and the income computations, as provided in the proposed food stamp regulations published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18874), will serve as the basis for eligibility and allotment determinations, until those rules are revoked or modified according to the implementation of final rules.

To facilitate the processing of SSI project recipients, the definition of

[3] Pub. L. 94-379 (Aug. 10, 1976) amended Pub. L. 93-233.

"household" found in subsections 3(i)(1) and (2) of the act is waived pursuant to the waiver authority found in subsection 17(b)(1) of that act. For the purpose of this project, a household is defined at § 282.11(c)(2) of this rulemaking. This waiver is essential since it allows the use of existing centralized computer data (SDX tapes) to compute program benefits. Complying with the subsection 3(i) (1) and (2) statutory definition would complicate and delay the processing of applications and make central machine calculations less cost efficient.

Further, the maximum resource eligibility limits, as established in subsection 5(g) of the act, are also waived. Project households meeting the resource eligibility criteria established for the SSI program (20 CFR 416.1201, et seq.) shall be considered to have categorically met the food stamp resource limits. This waiver will eliminate the need to obtain additional resource data from thousands of SSI households and the need to incorporate, after appropriate verification, that data onto the SDX tapes. Moreover, the overlap between the SSI and food stamp resource definitions (7 CFR 273.8(c), proposed) is such that this waiver should result in very few, if any, households receiving project benefits for which they would not have been eligible under the proposed food stamp resource criteria.

Approving this project for immediate implementation will alleviate the serious administrative problems which would arise if these several hundred thousand SSI recipients attempted to be certified under current program rules only to have to be recertified under final regulations implementing the act, which are likely to be published in September 1978.

Beginning this project on September 1 should avoid the loss of supplemental food benefits to thousands of eligible aged, blind, and disabled persons. Thus, this project tests methods designed to significantly improve program operations and reduce administrative costs while also alleviating a potential crisis regarding the delivery of food stamp benefits to SSI households in California.

The Department is currently engaged in the implementation of massive regulatory changes pursuant to the "* * * most comprehensive and detailed statutory revision of the Food Stamp Program since its inception." (43 FR 18874). On May 2, 1978, the Department issued an extensive regulatory proposal which generated thousands of letters, raising numerous issues requiring careful study.

Final program rules, accompanied by an extensive preamble, are expected to be published by late September 1978. To permit the SSI Conversion Project to begin immediately, the Department is hereby issuing final rules under the authority of the Food Stamp Act of 1977 and 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act. (The Department has determined that it is impractical and contrary to the public interest to give notice of proposed rulemaking.) These final rules include those subsections of the May 2, 1978 proposed rulemaking which are necessary to the operation of this project. Those proposed rules, made final by this rule for purposes of this project, are not republished herein but are specifically cited in the demonstration project rules (§ 282.11, of this rulemaking). The project rules, made effective by this publication, shall remain in force until superseded or modified, except as noted herein, by implementation of final regulations to be issued later in September. Nonetheless, to provide an opportunity to improve the operation of this project through public feedback, the Department solicits comments, which should be received on or before October 2, 1978. The Department will review this project based on a careful analysis of those comments.

The California project request provided few alternatives. The Department could not have awaited publication of the final version of the May 2, 1978 food stamp proposal before initiating this project, because California's SSI recipients regain food stamp eligibility on September 1. Nor could the Department have issued project rules in proposed form, for a normal public comment period, because that would have delayed implementation of this project beyond September 1, 1978. In light of these considerations, it seemed most appropriate to timely issue final project rules, based on proposed regulations which had been carefully prepared[1] and then provide a comment opportunity to consider modifications in the project. Current Departmental regulations, not inconsistent with this project, shall remain in force until amended or modified by final regulations issued pursuant to the Food Stamp Act of 1977.

The precipitate termination of California's "cash-out" status, and the subsequent timing of California's demonstration project proposal, posed an additional problem. This project will centralize eligibility determinations and the computation of benefit levels by using computer data (SSI grant amounts) already stored for SSI program purposes. The net income level computed by using SSI grant amount may differ from the net income level computed using new program rules. (7 CFR 273.9, as published May 2, 1978, and as made final for this project.) The computer adjustments necessary to modify the income computation procedures will not be completed until November 1, 1978. Consequently, during the first 2 months of the testing, a small number of households may be underissued or overissued benefits. Households underissued benefits shall have lost benefits restored in accordance with final regulatory procedures (not yet published) implementing the Food Stamp Act of 1977. Overissuances will also be handled according to final regulations. Because of the size of current SSI grants, and the manner in which they are calculated, relatively few underissuances or overissuances are expected, and any such underissuances or overissuances should only reflect small amounts.

Before the end of the project, and as soon as feasible, all SSI recipients which could be conceivably eligible for food stamps must be mailed an appropriate project application form which shall be designated to solicit information which will allow the State to compute any entitlement to lost benefits. Households not initially mailed an application, which subsequently complete a project application, shall have lost benefits computed from September 1, 1978.

The SSI conversion project is scheduled to begin on September 1, 1978, and will operate for up to 10 months. An evaluation of the project will be conducted by the California Department of Social Services and USDA. The evaluation will utilize program participation data, administrative cost data, and a State administered questionnaire. The accuracy of certification determinations shall also be reviewed.

Accordingly, 7 CFR Part 282 is amended as follows; a new § 282.11 is added, reading as follows:

§ 282.11 California SSI conversion project.

(a) *Authority.* Subsection 17(b)(1) of the Food Stamp Act of 1977 authorizes the Secretary of Agriculture to conduct demonstration projects designed to increase the administrative efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households. Under this authority, the Secretary will undertake a demonstration project involving the State administration

[1] Regarding the proposed May 2 rules, the Department noted that: In preparing this regulatory proposal the Department actively sought the advice and assistance of other Federal agencies, State public assistance departments, State and local food stamp agencies, food advocacy groups, public interest organizations, and the general public * * *. A total of 7,191 transcript pages were generated (at 17 public hearings) and 316 letters were received pursuant to Departmental efforts to encourage public participation. The Department also met with various organizations with technical expertise, experience or knowledge concerning more specific aspects of the program * * *. (43 FR 18874).

of the food stamp program (FSP) for Supplemental Security Income (SSI) recipients in the State of California. This demonstration project is hereafter referred to as the California SSI conversion project.

(b) *Purpose.* The purpose of the California SSI conversion project is to test program changes that might increase the efficiency of the food stamp program and improve delivery of food stamp benefits to eligible households through the use of an alternative certification and issuance procedure as a means to improve delivery of benefits to the aged, blind, and disabled. Additional project goals are to expedite the certification process, reduce administrative costs, and simplify program administration for SSI households.

(c) *Definitions.* (1) "Application to Participate" means the application form designed by the California State agency for the California SSI conversion project.

(2) "Household," for purposes of this project, means:

(i) Individuals, residing in California, receiving SSI assistance as singles; to be treated as one-person households.

(ii) Couples, residing in California, receiving SSI assistance as couples; to be treated as two-person households.

(3) "Program" means the food stamp program as governed by the SSI conversion project rules for California.

(d) *Statutory requirements to be waived.* To the extent that any food stamp statutory provisions are inconsistent with this project those provisions are waived, under authority of subsection 17(b)(1) of the Food Stamp Act of 1977, so long as the project does not lower or further restrict the income or resource standards or benefit levels of SSI recipients over the course of this project. In order to facilitate the certification of households under the California SSI conversion project, the food stamp household definition (subsections 3(i), (1) and (2)) and the resource exclusions and eligibility limits (subsection 5(g)) are waived.

(e) *Area of operation.* The SSI conversion project will be conducted throughout the State of California and will be administered by the California State Department of Social Serv- ices.

(f) *Criteria for participation.* The potential SSI food stamp eligible caseload shall be developed from the California State Data Exchange (SDX) computerized listing of recipients of benefits under title XVI of the Social Security Act.

(g) *SSI recipients not eligible.* The provision of subsection 3(i) of the Food Stamp Act of 1977, which excludes individuals from participation who reside in an institution or boarding house, is effective for this project. Individuals living in public institutions; categorized as in "nonmedical board and care" situations, including persons in private institutions and commercial boarding houses; or persons carried in "suspense" or "termination" categories according to SSI rules and consequently not receiving SSI benefits due to death, unknown address, relocation out of State or other like causes; shall not be considered for participation in the demonstration project.

(h) *Resource eligibility standards.* Households meeting the resource eligibility criteria for the SSI program shall be considered to have met the resource criteria for the food stamp program. Subsection 5(g) of the Food Stamp Act of 1977 is hereby waived for purposes of this project.

(i) *Application for participation.* (1) Individuals and couples listed on the SDX tape, with the exception of those persons discussed in paragraph (g), shall receive, where appropriate, notices which contain information and instructions regarding potential food stamp eligibility and which provide an abbreviated application for food stamp benefits.

(2) Announcement shall be made, through the mass media, of the discontinuance of the SSI food stamp cash-out procedure and of these changes in food stamp procedures.

(3) A state-operated, toll-free hotline shall be maintained, at least until November 1, 1978, to provide information and assistance. The hotline number shall be included in the announcements provided under (i)(2).

(4) SSI individuals or couples not initially receiving an application shall, if likely eligible for project participation, be provided with an application which will allow for an automatic computation of lost benefits. For those households found eligible, lost benefits shall be restored to the date of eligibility, but no earlier than September 1, 1978.

(5) 7 CFR 271.4(a)(1), (2), (4) and (5) (current) are not applicable to this project.

(j) *Eligibility.* (1) Eligibility criteria and net income computations shall be based upon relevant provisions of the Food Stamp Act of 1977, except as waived by these project rules. Subsections 5(c) (income poverty guidelines) and 5(e) (standard deductions) of the act are effective for purposes of this project along with any other subsections of the Food Stamp Act of 1977 which are implemented by regulations made final by this project.

(2) In computing household income, the following will be used: The OMB poverty guidelines adjusted as directed in subsection 5(c) of the act (a maximum net income limit of $277 for one-person households and a $365 maximum net income limit for two-person households); a $60 standard deduction; a 20-percent earned income deduction; and a $80 maximum excess shelter/dependent care deduction based on the July 1, 1978, adjustment.

(3) 7 CFR 271.3(b) and (c) (current income and resource eligibility standards) are not applicable to this project.

(4) 7 CFR 271.10 (current SSI rule) is not applicable to this project.

(5) The maximum net income limits and standard deduction established by these regulations shall be subject, if necessary, to the January 1, 1979, adjustment procedures established in subsections 5(c) and 5(e) of the Food Stamp Act of 1977.

(k) *Application processing.* Eligibility and food stamp benefit levels shall be determined on an automated basis by the Computer Services Branch of the California Department of Social Service. All standard processing for program participation shall be achieved without local county involvement and without face-to-face interviews as follows:

(1) Household information shall be taken from the SDX file. In the initial stage of the SSI Conversion Project, eligibility and the level of benefits shall be based on net income as calculated using the SSI grant amount. Modification of the computer system shall be made by November 1, 1978, to allow eligibility and benefit determinations to be based on the income definition provided in these project rules. The State agency shall be required to determine if underissuances or overissuances resulted from the temporary use of the SSI grant amount during this project. Underissuances and overissuances shall be handled by the State agency in accordance with subparts (p) and (q) of these rules.

(2) Use of the SDX data, verified under SSI verification rules, shall satisfy any food stamp verification requirements. 7 CFR 271.4(a)(2)(iii) (current) is not applicable to this project.

(3) Recipients reporting changes in household circumstances, according to SSI procedures, shall satisfy change reporting requirements for project purposes. 7 CFR 271.3(a)(iii) (current) is not applicable to this project.

(4) SSI recipients meeting the SSI citizenship or alien status tests for SSI eligibility, shall be eligible to participate in this project.

(5) By virtue of being aged, blind, or disabled, SSI recipients are exempt from the work registration requirement imposed by the Food Stamp Act of 1977.

(6) 7 CFR 271.4(a)(3) (current 30-day application processing standard) shall remain in force until amended.

(l) *Certification periods.* (1) Under the test procedure, SSI recipients shall be certified for up to 10 months. However, certification shall not extend

beyond the duration of the demonstration project.

(2) Households certified under these project rules will be recertified, if eligible, under regular program rules prior to project termination.

(3) In the month prior to the end of the last project certification period, the California State Department of Social Services shall notify SSI project recipients of the termination of their certifications, according to USDA regulations in force at that time.

(4) The level of household benefits may be adjusted by the State agency during any project certification period to take into account the termination of the use of the SSI grant awards in the calculation of allotment levels. Moreover, any changes in eligibility or benefit levels shall be treated as changes resulting from a "mass change in public assistance" and governed by 7 CFR 273.12(e)(2)(ii) (as proposed and made final by this rulemaking).

(m) *Issuance.* Allotment levels shall be calculated based upon subsections 5 (c), (d), and (e) and 8(a) of the Food Stamp Act of 1977, as determined by project regulations, except that allotment levels and eligibility may be initially computed based on SSI grant amounts.

(1) Upon determination of eligibility and benefit levels, computerized listings of food stamp eligibles and allotments shall be provided on a regular basis to a single centralized issuance agent.

(2) Coupons shall be distributed, based on the computer printed lists, by the central issuance agent. The issuing agent shall maintain records of all coupons issued and the date and amount of the coupons issued.

(3) Issuance shall be accomplished through a staggered mailing process, based on zip code regions, on a monthly basis. Such mailing shall insure that the participant receives the allotment on or about the same day each month.

(4) Alternative methods of delivery, such as the use of registered mail, shall be employed for high risk mail areas. At least first-class mail shall be used in mailing coupon allotments. In high risk areas experiencing losses, the State agency should consider mailing authorization to participate cards instead of coupons.

(5) 7 CFR 271.5 (current) and 7 CFR 271.6(d)(2-4) (current) are not applicable to this project. The last sentence of 7 CFR 271.6(d) (current) is not applicable to this project.

(n) *Mail losses.* All recipients whose coupons are lost in the mail shall be provided with an opportunity to obtain a replacement allotment according to 7 CFR 274.3(c)(1)(i-viii) of the proposed May 2 rules. Accountability controls shall be applied, to guard against repeated instances of replacement for individual cases. 7 CFR 274.3(c)(3) (proposed) is made final for this project.

(o) *Action notices.* (1) Specialized notices for actions of approval, denial, and termination shall be computer prepared and mailed to applicants and participants as appropriate.

(2) As is the case with standard notices of action, a State hearing application shall be provided on the reverse side of such notices with information regarding the action on the case, the opportunity for continuation of benefits in cases of termination or reduction of benefits (as provided in 1(4) of this rulemaking), and instructions for contacting the Department of Social Services in cases of dispute. Fair hearings shall be conducted under current regulations (7 CFR 271.1(o)) until final regulations are implemented under the Food Stamp Act of 1977.

(p) *Lost benefits.* Any underissuance of benefits to SSI project households resulting from the temporary use of the SSI grant award in determining household eligibility and calculating benefit levels (as opposed to the USDA May 2, 1978, proposed income regulations, made final by this rulemaking, and any later amendments) shall be defined as an "administrative error" as described in 7 CFR 271.1(q) (1), (2) (current). This section is effective until superceded by final regulations implementing the Food Stamp Act of 1977.

(q) *Claims.* Any overissuance of benefits to SSI project households resulting from the temporary use of the SSI grant award (as opposed to the USDA May 2, 1978, proposed income regulations, made final by this rulemaking, and any later amendments) shall be handled according to final regulations (not yet published) implementing the Food Stamp Act of 1977. Action on claims arising prior to final publication of those regulations shall be suspended until that date. 7 CFR 271.7(f) (current) is not applicable to this project.

(r) *Current regulations.* The current program regulations (7 CFR Part 270 et seq.) shall remain in force, except as specifically noted herein and except where inconsistent with any rules governing this project. Provisions of the Food Stamp Act of 1964, as amended, and relevant current program regulations, which remain in force for purposes of this project, shall continue in effect until revoked, amended, or modified according to final regulations issued pursuant to the Food Stamp Act of 1977.

(s) *Other project rules.* The following provisions of the proposed regulations (issued May 2, 1978; 43 FR 18874 et seq.) are made final for purposes of this project, until revoked, amended, or modified by later rulemaking:

(1) 7 CFR 273.3 (Residency);

(2) 7 CFR 273.9 (Income and Deductions). All potentially eligible project households must be provided with appropriate applications. While California is in the process of converting its computerized SSI operations to be compatible with these project rules, certain households which might have been eligible under 7 CFR 273.9 may be determined ineligible, based on the SSI grant award or SSI income computations. Those households which applied for participation, but were turned down based on the SSI grant award or SSI income computations, shall have their applications automatically reprocessed when the centralized computer system bases computations on the 7 CFR 273.9 definitions. Lost benefits shall automatically be restored to the appropriate households.

Potentially eligible SSI households, not initially sent an application for project participation, shall be mailed an appropriate application to determine eligibility for lost benefits and for prospective participation. SSI households which would clearly not be eligible for project participation (based on the SSI grant amounts and on the 7 CFR 273.9 definitions) need not be mailed applications.

(t) *Termination of the project.* This project may be terminated or modified by the U.S. Department of Agriculture at any time upon delivery of written notice to the California State agency or publication of Notice in the FEDERAL REGISTER.

(u) *Evaluation.* An evaluation of the project will be conducted by the California Department of Social Services and USDA. The project shall evaluate the use of the SSI unit for food stamp participation; the accuracy of certification based on information obtained from an automated data information system (SDX); the effect of the project procedures on participation; and the cost-effectiveness of such a procedure. The evaluation shall be achieved through the use of program participation data, administrative cost data, and the use of a State-administered questionnaire. Reviews will also be conducted to assess the accuracy of certification and assigned benefit levels.

CAROL TUCKER FOREMAN,
Assistant Secretary of Agriculture.

[FR Doc. 78-24842 Filed 8-31-78; 8:45 am]

[3410-02]

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

[Lemon Regulation 161]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 3-9, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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

The committee met on August 29, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good, with the smaller sizes showing some weakness.

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

§ 910.461 Lemon Regulation 161.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 3, 1978, through September 9, 1978, is established at 225,000 cartons.

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

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

Dated: August 30, 1978.

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

[FR Doc. 78-24875 Filed 8-31-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE DEPARTMENT OF AGRICULTURE

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

Enforcement Policy; Approval of Ports of Export

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Statement of enforcement policy.

SUMMARY: This document sets forth the enforcement policy of the Department for the approval of export inspection facilities and designation of additional parts fo export for animals. The intended effect of this action is to clarify the Department's enforcement policy in conjunction with the conditions under which export inspection facilities will be approved and additional parts or export will be designated.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, Md. 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: Standards for approval of export inspection facilities are provided in § 91.3(c) of the regulations (9 CFR Part 91). This statement of policy is being issued to put all persons on notice that henceforth an export inspection facility must meet all the standards set forth in § 91.3(c) before it will be approved by the Department pursuant to § 91.3(b).

Done at Washington, D.C., this 25th day of August 1978.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-24426 Filed 8-31-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Rules for Off-the-Record Communications in Natural Gas and Electricity Import and Export Proceedings

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rulemaking.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") hereby adopts a new rule of practice for governing off-the-record communications which applies to formal adjudications of ERA on applications to import and export natural gas and to export electricity. The purpose of the rule is to protect the integrity of the record upon which the determination whether to grant an application will be made by preventing the inclusion of opinions, arguments or evidence to which all the participants in an adjudication do not have an opportunity to respond.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bill Webb (Public Affairs), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, 202-634-2170.

Lynne H. Church (Division of Natural Gas Regulations), Economic Regulatory Administration, Room 3308,

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

2000 M Street NW., Washington, D.C. 20461, 202-632-4721.

David A. Eaton (Office of Fuels Regulation), Economic Regulatory Administration, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 202-254-3330.

James M. Brown, Jr. (Office of Utility Systems), Economic Regulatory Administration, Room 4070, Vanguard Building, 2000 M Street NW., Washington, D.C. 20461, 202-634-5620.

Barry Smoler (Office of General Counsel), Department of Energy, Room 510, 1726 M Street NW, Washington, D.C. 20461, 202-634-5545.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Final rule.
III. Description of comments and actions taken in response.
IV. Effective date.

I. Background

This rule applies to natural gas import and export and electricity export adjudications conducted in formal proceedings similar to those specified in the Administrative Procedure Act (APA) (5 U.S.C. 551, 556, and 557) that were transferred to the ERA following completion of certain procedures by the Federal Energy Regulatory Commission (FERC) pursuant to § 1000.1(c)(2) of the October 1, 1977 DOE final rule (42 FR 55534, October 17, 1977), as amended, entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission" (final rule), or transferred to the Secretary of Energy pursuant to section 1000.1(b)(16)(i) of the final rule. This includes three currently pending adjudications concerning applications to import liquefied natural gas, as follows: *Pac Indonesia LNG Company, et al.*, ERA docket No. 77-001-LNG; *El Paso Eastern Company, et al.*, ERA docket No. 77-006-LNG; and *Tenneco Atlantic Pipeline Company, et al.*, ERA docket No. 77-010-LNG.

In addition, the rule applies to applications to import or export natural gas or to export electricity (1) which are first submitted to ERA on or after October 1, 1977, and (2) in which either a hearing is noticed, a protest is filed, or a petition or notice to intervene in opposition to the requested ERA action is filed. Hence, it may also apply to the recently filed application entitled *Columbia LNG Corporation, et al.*, ERA docket 78-004-LNG, in the event that hearings are noticed or the application is contested by a protest or request or notice to intervene in opposition.

ERA intends in the near future to adopt complete new procedural regulations for natural gas and electricity import and export cases, including ERA docket No. 78-004-LNG. In the interim, the regulations of the former Federal Power Commission contained in title 18 of the Code of Federal Regulations will continue to apply to the ERA proceedings, except for matters covered in this rule.

ERA published a proposed rule for ex parte communications on March 24, 1978 (43 FR 12330-32), and gave the public until April 24, 1978, in which to comment on the proposal. ERA also invited requests for opportunity to make an oral presentation, but received no such requests for a hearing.

II. Final Rule

After consideration of the comments received, as discussed below, ERA has adopted a final rule. In the final rule, ERA has used the term "off-the-record communications" instead of "ex parte communications" in an effort to make the rule more easily understood by the public. The rule prohibits communications, relevant to the merits of formal adjudications to determine whether to grant an application to import or export natural gas or to export electricity, between DOE employees who are involved in the decisionmaking process and interested persons unless there is adequate prior notice of the communication to all the participants. It does not prohibit communications relating solely to procedures which are not relevant to the merits of the adjudication. If a prohibited written or oral communication is made, the communication or memorandum thereof must be placed in the public record and made available for inspection. The rule also gives the Administrator the discretion to dismiss, deny or disregard the claim of a participant who violates the regulation.

The purpose of the rule is to protect the integrity of the record upon which the determination whether to grant an application will be made by preventing the inclusion of opinions, arguments or evidence to which all the participants in an adjudication do not have an opportunity to respond. It aims for fair play for all and assurance that decisions will rest on facts, arguments and ideas which have been subjected to the scrutiny of all concerned.

The rule is consistent with the procedural requirements of section 557(d) of the APA, which is the section governing off-the-record communications in formal adjudications. Many of the provisions, in fact, reflect comments contained in the legislative history of section 557(d), which flesh out the skeletal definitions in the statute itself. For example, the definition of "interested person" excludes Federal agencies, based on a statement in the legislative history that for purposes of section 557(d) "person" has the same meaning as elsewhere in the act. Section 551(2) of the APA defines "person" as excluding Federal agencies. However, if a Federal agency is an actual participant in a proceeding, such as an intervenor, it does not come within the Federal agency exclusion and is subject to the rule.

The definition of "decisional employee" is also based on the APA legislative history. It includes all employees who participate or should reasonably be expected to participate in the decisionmaking process, which involves all facets of the deliberative process, from the preliminary identification of issues to their final resolution. Any employee of the Department, including a paid consultant, who is consulted by the Administrator or his decisionmaking staff on matters relevant to the merits of the adjudication is a participant in the decisionmaking process.

"Relevant to the merits," as defined, also tracks the language of the APA and incorporates the legislative history's view that the term is broader than the "facts in issue," within the meaning of APA section 554. However, the definition does not extend to general background discussions about an entire industry or communications of a general nature made in the context of developing policy for future general application.

III. Description of Comments and Actions Taken in Response

Comments on the proposed rule were received from the Interstate Natural Gas Association of America, Mobil Oil Co., Texas Gas Transmission Corp., Natural Gas Pipeline Co. of America, Phillips Petroleum Co., Florida Gas Transmission Co., and General Motors Corp. All of the comments have been considered in promulgating this final rule.

Four of the comments expressed the opinion that the definition of "decisional employee" in the proposed rule was too broad and appeared to include staff counsel and others who serve in an investigative or prosecutorial role. In addition, the definition was thought to be too vague, so that it would create doubt as to who in the Department would be a decisional employee. The practical effect would be that communications with Department staff, otherwise permitted, would be inhibited out of the need to use undue caution to avoid violating the rule.

As a remedy, it was recommended that the definition more narrowly and precisely describe who would be a decisional employee and that staff counsel and others performing a prosecutorial or investigative role be specifically excluded from the definition. It was also

recommended that a list of decisional employees be published in the FEDERAL REGISTER for each import and export proceeding, so that the public would be aware of what employees are covered by the rule.

Because of the confusion as to the scope of the definition of "decisional employee," we have modified the final rule to clarify that it refers only to those Department employees "who are, or may reasonably be expected to be, involved in the decisionmaking process, which includes advising the Administrator in resolving the issues in an adjudication." However, Department employees performing investigative and trial functions in an adjudication may also act in a decisionmaking capacity when specifically requested by the Administrator or his delegate. In that event, the employee performing both functions comes within the rule's definition of "decisional employee."

This approach is consistent with the APA, 5 U.S.C. 554(d), which states that in adjudications determining applications for initial licenses, there is no prohibition against participation in the decisionmaking function by employees who also serve in an investigative, prosecutorial, or other trial role.

We will reconsider this issue, as well as other issues involved in this rule, in the context of our promulgation of complete new procedural regulations. However, at this time we do not intend to make staff members performing technical and trial functions part of the decisionmaking process on a regular basis, and hence put constraints on their ability to communicate with the parties and other interested persons. Our policy will be to exercise this option only when their technical expertise is needed. In those cases where FERC staff are also involved, such as the currently pending hearings in ERA docket 77-001-LNG, on the application amendment to site a LNG terminal at Point Conception, Calif., we will not make those employees part of the decisionmaking process without coordination with the FERC. In all situations where a Department employee, including a FERC employee, is initially assigned to a case in a nondecisional role and is later made part of the ERA decisionmaking process, notice will be given.

We have not adopted the recommendation that a list of all decisional employees be published for each proceeding. Keeping such a list up to date would be impractical and would burden the Administrator's ability to call on various Departmental segments for assistance in resolving an import or export application. Any doubts as to whether a particular DOE employee is involved in the decisionmaking process of a proceeding can be resolved by inquiring as to his or her status before initiating an off-the-record communication. Furthermore, those Department employees who are serving in a decisionmaking capacity have a responsibility to make their participation known to the applicants and other interested persons.

Several organizations filing comments recommended that there be more specificity in the types of communications not precluded by the rule. As an example, they cite § 1.4(d)(2) of the FERC's procedural rules which specify what types of off-the-record communications with the FERC staff are acceptable. The recommendation points out the difference in thrust between the two agencies' rules; the former, applying to a small collegial, regulatory body, prohibits off-the-record communications between all outside persons and all FERC employees, except in certain specified situations. ERA's rule only prohibits off-the-record communications between interested persons and those decisional employees of a large, policymaking Executive Department who are participating in a particular proceeding. No restrictions apply to communications by interested persons with Department personnel who are not involved in the decisionmaking process. Hence, the recommended listing of exemptions is unnecessary.

It was recommended in one of the comments that the time when the prohibitions contained in the rule begin to apply be changed to when the person responsible for the off-the-record communication acquires knowledge that an application to import or export will be filed or is actually filed. We do not believe that extending coverage of the rule to this early a stage in the proceeding is necessary to protect the integrity of the decisionmaking process. Prior to the time a request to intervene in opposition to the application or a protest is filed or hearings are contemplated, there are no other identifiable interested parties to protect, and there is little likelihood that off-the-record communications at this early stage can prejudice the proceedings.

We, therefore, have not adopted the requested change, but have modified the rule as originally proposed to apply either at the time hearings are noticed (or knowledge of contemplated notice of hearings is acquired), or a protest or notice to intervene in opposition is filed. This is identical in substance to the current FERC regulation (18 CFR 1.4(d)(7)), and is consistent with the APA.

One comment requested that the definition of "interested person" be modified in order to clarify that when a Federal agency is a participant in a proceeding, it is barred from having off-the-record communications with Department decisional employees concerning all aspects of the proceeding, and not just those concerning issues in which the agency has an interest. We have adopted the recommendation and have clarified the definition to state that the term interested person "does not include other Federal agencies, unless an agency is a participant in the proceeding."

Another organization commenting stated that the prohibitions against off-the-record communications should apply to States and their political subdivisions. We interpret the term "public officials" used in the definition of "interested person" in the proposed rule to include State and local officials; however, the final rule has been modified to resolve any ambiguity. Any public official of a State or local entity with a proprietary, financial, or other special interest in the outcome of a proceeding falls within the definition of "interested person" and is subject to the prohibitions of the rule. However, a State commission sharing regulatory jurisdiction with ERA and having no such special interest would fall outside the rule.

It was recommended that procedures be established for persons who allegedly have violated the rule to file with the Department responses explaining their actions, and for other parties to file statements rebutting facts which are the subject of off-the-record communications. Under both the proposed rule and that finally adopted, there is no prohibition on persons filing either statements answering allegations of a violation or rebuttals, as long as they are made on the record. However, we do not believe that a formalized procedure is needed.

IV. EFFECTIVE DATE

Because there are several pending import and export applications that will be resolved by formal on-the-record adjudication and because the rule is procedural in nature, the final rule is effective upon publication in the FEDERAL REGISTER.

As required by section 404(a) of the Department of Energy Organization Act (DOE Act) Pub. L. 95-91, the proposed rule was referred to the FERC for a determination whether it may significantly affect any function within the jurisdiction of the FERC pursuant to sections 402 (a)(1), (b), and (c)(1) of the DOE Act. The FERC responded by letter dated July 14, 1978, that it did not request referral of the proposed rule and that no determination had been made that the rule would significantly affect any of the FERC's relevant functions.

This proposal is procedural only, and the requirement in section 7(a)(1) of the Federal Energy Administration

Act of 1974, Pub. L. 93-275, as amended, that proposals "affecting the quality of the environment" be reviewed by the Environmental Protection Agency prior to issuance does not apply.

(Natural Gas Act of 1938, Pub. L. 75-688, as amended; Federal Power Act, 41 Stat. 1063, as amended; Executive Order No. 10485, Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended; Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 205 of chapter II, title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., August 24, 1978.

DAVID J. BARDIN,
Administrator,
Economic Regulatory
Administration.

Subpart U—Procedures for Natural Gas and Electricity Import and Export Cases

Sec.
205.260 Purpose and scope.
205.261-205.269 [Reserved]
205.270 Off-the-record communication.

Subpart U—Procedures for Natural Gas and Electricity Import and Export Cases

§ 205.260 Purpose and scope.

(a) The purpose of this section is to state the procedures that will be followed by the Economic Regulatory Administration of the Department of Energy in natural gas import and export and electricity export adjudications.

(b) *Definitions.* As used in this subpart—

"Administrator" means the Administrator of the Economic Regulatory Administration.

"Decisional employee" means the Administrator, presiding officers at adjudicatory hearings, and other employees of the Department, including consultants and contractors, who are, or may reasonably be expected to be, involved in the decisionmaking process, which includes advising the Administrator in resolving the issues in an adjudication. The term does not include those employees of the Department performing investigative or trial functions in an adjudication, unless they are specifically requested by the Administrator or his delegate to participate in the decisionmaking process.

"Department" means the Department of Energy.

"Off-the-record communication" means an ex parte communication, which is an oral or written communication relevant to the merits of an adjudication and not on the record and with respect to which reasonable prior notice to all participants and opportunity to be present at, or respond to, the communication is not given, but does not include a communication relating solely to procedures which are not relevant to the merits of the adjudication.

"Interested person" means a person outside the Department whose interest in the adjudication goes beyond the general interest of the public as a whole and includes applicants, intervenors, competitors of applicants, nonprofit and public interest organizations, and other individuals and organizations, including State, local, and other public officials, with a proprietary, financial, or other special interest in the outcome of the adjudication. The term does not include other Federal agencies, unless an agency is a participant in the adjudication.

"Participant" means any applicant or intervenor participating in the adjudication.

"Adjudication" means a formal proceeding employing procedures identical or similar to those required by the Administrative Procedure Act, as codified in 5 U.S.C. 551, 556, and 557, to consider an application to import or export natural gas or to export electricity.

"Reasonable prior notice" means 7 days' written notice stating the nature and purpose of the communication.

"Relevant to the merits" means a communication directly related to the merits of a specific adjudication but does not include general background discussions about an entire industry or communications of a general nature made in the course of developing agency policy for future general application.

§§ 205.261 through 205.269 [Reserved]

§ 205.270 Off-the-record communications.

(a) In any proceeding which is subject to this subpart—

(1) No interested person shall make an off-the-record communication or knowingly cause an off-the-record communication to be made to any decisional employee.

(2) No decisional employee shall make an off-the-record communication or knowingly cause an off-the-record communication to be made to any interested person.

(3) A decisional employee who receives, makes, or knowingly causes to be made an oral communication prohibited by this section shall prepare a memorandum stating the substance of the communication and any responses made to it.

(4) Within 48 hours of receiving, making, or knowingly causing to be made a communication prohibited by this section, a decisional employee shall deliver all written off-the-record communications and all memorandums prepared in compliance with paragraph (a)(3) of this section to the Chief of the Document Control Section, Office of Fuels Regulations, ERA (for natural gas adjudications) or to the Chief of the System Reliability and Emergency Response Branch, ERA (for electricity adjudications), who will immediately place the materials described above in the public record associated with the adjudication, available for public inspection.

(5) Upon receipt of a communication knowingly made or knowingly caused to be made by a participant in violation of this section, the Administrator or presiding officer may, to the extent consistent with the interests of justice and the applicable statutory policy, require the participant to show cause why his or her claim or interest in the adjudication should not be dismissed, denied, disregarded, or otherwise adversely affected on account of the violation.

(6) The prohibitions of this section shall apply beginning at the time an adjudication is noticed for hearing (or the person responsible for the communication acquires knowledge that it will be noticed), a protest is filed, or a petiton or notice to intervene in opposition to the requested Department action is filed, whichever occurs first.

(b) The prohibition, cited at 18 CFR 1.30(f), against participation in the decisionmaking process by Department employees who perform investigative or trial functions in an adjudication shall no longer be applicable to ERA.

[FR Doc. 78-24756 Filed 8-30-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 1—GENERAL PROCEDURES

Rules and Rulemaking Under Section 18(a)(1)(B) of the FTC Act as Amended by Public Law 93-637

AGENCY: Federal Trade Commission.

ACTION: Final rules (amendment).

SUMMARY: The Federal Trade Commission is revising its rules of practice to transfer to the Office of the General Councel the presiding officers in trade regulation rulemaking proceedings and the responsibility for awarding compensation to participants. This

transfer is being made as a matter of policy to enhance the management and work product of these programs.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3520.

In consideration of the provisions of 15 U.S.C. 46(g) and 57(a), the Commission hereby amends §§ 1.13(c) and 1.17(d) of 16 CFR as follows:

1. By amending § 1.13(c) to read as follows:

§ 1.13 Rulemaking proceeding.

* * * * *

(c) *Presiding officer.* Upon commencement of a proposed trade regulation rule proceeding, a presiding officer shall be appointed by the General Counsel, or, when the Commission or one or more of its members serves as presiding officer, by the Commission.

* * * * *

2. By amending § 1.17(d) to read as follows:

§ 1.17 Compensation for representation in rulemaking proceedings.

* * * * *

(d) *Determination of applications.* (1) *By the presiding officer.* The presiding officer shall consider applications for compensation filed under this section and forward initial findings to the General Counsel as to whether the applicant meets the criteria of paragraph (a) of this section. In determining whether the representation of an interest is necessary for a fair determination of the proceeding taken as a whole, the presiding officer shall consider, among other factors, the number and complexity of the issues involved and the importance of a fair, balanced representation of all interests. In determining whether an applicant can afford to pay the costs of participation, the presiding officer shall consider, among other factors, the size of the economic stake of the interest involved as compared with costs of participation; the resources of the applicant; and the feasibility of obtaining contributions from other parties who share the applicant's interest. In connection with his determination the presiding officer may conduct such inquiry of the applicant or require the production of such documents as he deems necessary.

(2) *By the General Counsel.* The General Counsel shall review applications and the initial findings of the presiding officer and determine, in his discretion, to what extent compensation shall be authorized under this section.

* * * * *

By direction of the Commission dated August 21, 1978.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-24389 Filed 8-31-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Trichlorfon Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Bayvet Division of Cutter Laboratories, Inc., providing for the safe and effective use of a trichlorfon paste for treating horses and foals for certain helminth and bot infections.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, Kans. 66201, filed an NADA (100-201V) providing for the use of a 40-percent trichlorfon paste for the treatment of mouth and stomach stages of bots, mature large roundworms, and adult pinworms.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 520 is amended by adding new § 520.2520d to read as follows:

§ 520.2520d Trichlorfon paste.

(a) *Specifications.* The drug is a paste containing 40-percent trichlorfon. It is packaged in dispensing syringes containing 40 grams of paste (16 grams of trichlorfon).

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(c) *Special considerations.* Trichlorfon is a cholinesterase inhibitor. Do not use this product simultaneously with, or within a few days before or after treatment with or exposure to, cholinesterase-inhibiting drugs, pesticides, or chemicals. Do not administer in conjunction with, or within 1 week of administration of, succinylcholine chloride, phenothiazine-derived tranquilizers, or anesthetics.

(d) *Conditions of use*—(1) *Amount.* 16 milligrams of trichlorfon per pound of body weight (1.6 grams per 100 pounds).

(2) *Indications for use.* For the control and/or treatment of mouth and stomach stages of bots (*Gastrophilus intestinalis*) and (*Gastrophilus nasalis*), mature ascarids (*Parascaris equorum*), and adult pinworms (*Oxyuris equi*) in horses and foals.

(3) *Limitations.* Administer directly from the syringe on the back of the horse's tongue. Do not administer on an empty stomach. Not for use in horses intended for food. Re-treatment may be necessary for horses maintained on premises where reinfections are likely to occur. For most effective results, re-treat horses in 4 to 8 weeks or as recommended by a veterinarian. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Effective date. This regulation is effective September 1, 1978.

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

Dated: August 25, 1978.

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

[FR Doc. 78-24475 Filed 8-31-78; 8:45 am]

[4110-03]

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

Chlorothiazide Tablets and Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations for chlorothiazide tablets and boluses are amended to indicate those conditions of use for which approvals for identical products need not include certain types of effectiveness data. In lieu of such data, approvals may require submission of bioequivalence or similar data.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The announcement of the National Academy of Sciences/National Research Council (NAS/NRC) review of these products was published in the FEDERAL REGISTER of February 26, 1969 (34 FR 2622). The Academy concluded, and the Food and Drug Administration (FDA) concurred, that chlorothiazide tablets are effective for congestive heart failure and nephrotic syndrome in dogs, but more information was needed to support claims for cirrhosis of the liver and other edematous states.

The Academy also concluded that chlorothiazide boluses are probably effective for udder edema but probably not effective for other localized edematous states in cattle and that more information was needed. The FDA concluded that the boluses are effective as an aid in reduction of postparturient udder edema.

The announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the agency, and to inform all interested persons that such articles may be marketed providing they are the subject of approved NADA's or otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. Holders of applications were required to submit adequate documentation in support of the labeling used.

Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065, responded by submitting a supplemental NADA (11-678V) for its tablet which deleted those label claims lacking adequate documentation. No new effectiveness data were submitted. The supplement was approved by a regulation issued in the FEDERAL REGISTER of February 12, 1972 (37 FR 3178). The regulation reflecting this approval (21 CFR 135c.61, recodified 21 CFR 520.420), contrary to current policy, did not specify those conditions of use that were NAS/NRC approved. These are drug uses for which approval of an NADA does not require effectiveness data as specified by 21 CFR 514.1(b)(8)(ii).

In addition, Merck submitted a supplemental NADA (12-734V) for its bolus. The application withdrew unsupported claims and, where requested, presented additional data based on adequate and well-controlled studies. A member of the NAS/NRC review panel questioned the package insert statement that excessive potassium loss does not occur with thiazides. A copy of a paper by R. S. Anderson and E. C. Pickering, "Assessment of the Action of Acetazolamide and Hydrochlorothiazide in the Cow," (*Research Veterinary Science*, 5:100-108, 1964) was submitted in support of the statement. Data in this reference show that hydrochlorothiazide treatment causes no reduction in plasma potassium concentration whereas acetazolamide use causes some reduction. The data also show that the greatest losses in urinary potassium were observed in those experiments in which the fall in plasma potassium was the most marked. Thus, because hydrochlorothiazide did not lower plasma potassium levels, the statement in the package insert was left intact.

With respect to human safety, one of the comments in the NAS/NRC review document was that it might become necessary to submit residue data on treated animals where edible tissue or milk may be used for food purposes. Merck developed and submitted milk and tissue residue assay methods. In a letter of September 18, 1975, FDA notified Merck that, based on drug use, animal husbandry practices, low drug toxicity, and rapid drug depletion (as indicated by Merck's residue studies), a waiver of the assay method validation and confirmation was granted and that, FDA concurred with the 3-day milk withholding period currently recommended on the labeling.

The previously mentioned claim withdrawals and submission of additional effectiveness data have substantiated upgrading the NAS/NRC rating from probably effective to effective.

This document amends § 520.420 of the regulations to editorially revise and redesignate the existing text as paragraph (a), to add new paragraph (b) for boluses, to add the NAS/NRC approved precautions to the new limitations portion, and to indicate by footnote those conditions of use for which approvals for identical products need not include certain types of effectiveness data required for approval in § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of that data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available from the Hearing Clerk (HFA-305), Food and Drug Administration.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Approval of this application does not constitute a reaffirmation of the parent NADA nor does it constitute a reaffirmation of the drug's safety and effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1(a)(1)), § 520.420 is revised to read as follows:

§ 520.420 Chlorothiazide tablets and boluses.

(a)(1) *Specifications.* Each tablet contains 0.25 gram of chlorothiazide.

(2) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Amount.* Usual dosage is 5 to 10 milligrams per pound of body weight two or three times daily.[1]

(ii) *Indications for use.* For use in dogs for treatment of congestive heart failure and renal edema.[1]

(iii) *Limitations.* (a) Dosage must be adjusted to meet the changing needs of the individual animal. In mild and responsive cases, it is suggested that a dose of 5 milligrams per pound of body weight be administered two or three times daily. In moderately edematous and moderately responsive animals, a dose of 7.5 to 10 milligrams per pound of body weight may be administered three times daily. Severe conditions may require higher doses. Certain animals may respond adequately to intermittent therapy; in these cases, the

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalancy and safety information.

drug may be administered either every other day or for 3 to 5 days each week.

(*b*) Animals should be regularly and carefully observed for early signs of fluid and electrolyte imbalance. Take appropriate countermeasures if this should occur. In some dogs, hypochloremic alkalosis may occur (that is, excretion of chloride in relation to sodium is excessive; the plasma bicarbonate level increases and alkalosis results). Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

(b)(1) *Specifications.* Each bolus contains 2 grams of chlorothiazide.

(2) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Amount.* 2 grams once or twice daily for 3 or 4 days.[1]

(ii) *Indications for use.* For use in cattle as an aid in reduction of postparturient udder edema.[1]

(iii) *Limitations.* Animals should be regularly and carefully observed for early signs of fluid and electrolyte imbalance. Take appropriate countermeasures if this should occur. Milk taken from dairy animals during treatment and for 72 hours (six milkings) after latest treatment must not be used for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

Effective date. This regulation becomes effective September 1, 1978.

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

Dated: August 24, 1978.

TERENCE HARVEY,
Acting Director for Bureau of Veterinary Medicine.

[FR Doc. 78-24473 Filed 8-31-78; 8:45 am]

[4110-03]

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a new animal drug application (NADA) filed by Kay Dee Feed Co. providing for the use of a 10-gram-per-pound tylosin premix for making complete swine feeds, and to add Kay Dee Feed Co. to the list of approved NADA sponsors.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Kay Dee Feed Co., 1919 Grand Avenue Sioux City, Iowa 51107, filed an NADA (111-814V) providing for the safe and effective use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound for the manufacture of complete swine feeds used to increase rate of weight gain and to improve feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491V, which is incorporated herein by reference. This approval does not constitute reaffirmation of the referenced NADA, nor does it constitute reaffirmation of the drug's safety and effectiveness. In addition, Kay Dee Feed Co. has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to include this firm.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (section 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 510 and 558, are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to (c)(2) to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *
(1) * * *

Drug listing No.	*Firm name and address*
* * * * *	
Kay Dee Feed Co., 1919 Grand Ave., Sioux City, Iowa 51107.	026848
* * * * *	

(2) * * *

Drug listing No.	*Firm name and address*
* * * * *	
026848	Kay Dee Feed Co., 1919 Grand Ave., Sioux City, Iowa 51107.
* * * * *	

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(56) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(56) To 026848: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective September 1, 1978.

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

Dated: August 25, 1978.

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

[FR Doc. 78-24474 Filed 8-31-78; 8:45 am]

[4310-02]

Title 25—Indians

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

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

PART 258—INDIAN FISHING—HOOPA INDIAN RESERVATIONS

AGENCY: Department of the Interior.

ACTION: Notice of inseason adjustment No. 3, closing of a portion of the fishery.

SUMMARY: This inseason adjustment closes the Klamath River below Highway 101 bridge to all Indian fishing and above the bridge to Indian commercial fishing, and restricts fishing for consumptive (subsistence) purposes above the bridge. This action is taken in consideration of conservation problems.

EFFECTIVE DATE: 12:01 a.m. August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Sue Hvalsoe, 202-343-3163.

SUPPLEMENTARY INFORMATION:

STATEMENT OF CONSIDERATION

The rules covering Indian fishing on the Hoopa Indian Reservation were promulgated on July 7, 1978, and published in the FEDERAL REGISTER on July 13, 1978. These regulations were modified on August 4, and August 18 to adjust the days and hours when

fishing was permitted. The latter adjustment also brought the regulations into conformity with an agreement with the State of California regarding the management of this year's fishery. As part of the agreement the August 18 regulations prohibited sale of sturgeon and steelhead trout by Indians.

The major underlying concern addressed by the development, promulgation and enforcement of the regulations has been the conservation of the resource. In the original and subsequent adjustments of the regulations this concern was highlighted. Section 258.12 specifically addressed the need to conserve the resource through the provision that "The area manager of the U.S. Fish and Wildlife Service in Sacramento, Calif., shall have the authority to make inseason and emergency changes in the regulations when necessary to insure proper management of the fisheries resources of the Klamath and Trinity Rivers. This includes the power to close all or part of an Indian fishery when, in his or her judgment, a closure is necessary to meet conservation or enforcement needs." In the adjustment of the regulations promulgated August 18, the poor state of the resource was recognized by the statement "* * * or if the current substantial concern for conservation of the resource, caused by the late and apparently smaller than usual size of the fall salmon run is not alleviated * * *."

Population estimates for the years 1976 and 1977 suggest that the Klamath River chinook salmon population approximates 200,000 fish. To perpetuate this run, biologists estimate that 115,000 adult fish must return to the spawning grounds annually. Available data for this year suggest that probably less than 10 percent of that expected number of fish have entered the river. Although catch statistics for the Indian commercial fishery are unavailable for previous years information suggests that the river harvest this year is considerably below that for past years.

CATCH

Year	Ocean		River		Marking program
	Troll (as pounds)	Sport (as fish)	Sport	Indian	
1977	4,703,000	76,981	5,000	[2](25,000)	55
	[1]1,928,660				
1978	5,300,000	92,000	900	8,000	2
	2,697,000				

[1] Pounds of fish landed at northern California ports.
[2] Estimate based on fragmentary information.

At least two explanations are possible for the apparent low numbers of fish accounted for in the Klamath River this year. First, the run may be delayed or reduced as a result of some environmental factor in the ocean. There is some indication that this may be the case as anadromous fish runs are late or smaller in a number of other major west coast rivers. Secondly an increase in the ocean harvest, possibly enhanced by the delayed entry into the river, might reduce the number of fish which are available to enter the river. Of particular interest is the fact that the California ocean harvest of chinook salmon was considerably higher in 1978 then for the same period in 1977, especially for the area around the Klamath River.

The available data are inadequate to determine whether the run has been delayed or if the population is below anticipated levels. There is no question that the number of fish which have entered the river are much below the number of past years at the same point in time. However, the cause for the poor return is of less importance than the biological consequences for the resource.

Consultation with qualified Indian fishermen and with personnel from the State of California have resulted in substantial support for the need to close all fishing below the Highway 101 bridge, the area of greatest fish vulnerability, and to close all commercial fishing above the bridge. The latter activity is considered to have a greater impact on the resource than taking fish for subsistence or ceremonial purposes.

Because of the conservation problem, the State of California has indicated its willingness to close sport fishing concurrently with the closure of all Indian fishing below the Highway 101 bridge and Indian commercial fishing above the Highway 101 bridge. We have also requested the Department of Commerce to close the offshore troll fishery.

It is therefore ordered, That under provisions of § 258.12, all Indian fishing below the Highway 101 bridge and all Indian commercial fishing in the rivers cease as of 12:01 a.m., Monday, August 28, 1978.

In addition, pursuant to the agreement with the State of California, Indian subsistence fishing is hereby subject to inseason adjustment to allow Indian consumptive (subsistence) fishing above the Highway 101 bridge only, during the hours of 8 p.m. to 6 a.m., on the nights of Wednesday through Sunday with the provision that all nets must be out of the water between the hours of 6 a.m. and 8 p.m.

Finally, because little or no information is available on the strength of Klamath and Trinity River steelhead and sturgeon runs, the sale of all steelhead and sturgeon is prohibited.

Collection of information is still essential in order to assess the state of the resource and make any further adjustments in the fishing regulations. All Indian fishing may be prohibited if reporting of consumptive (subsistence) effort and catch is not adequate or if the assessement of available date indicates that the resource is at a lower level than current information would indicate.

Notice of this order is provided to local newspapers and posted at pertinent places on the Hoopa Indian Reservation. It shall also be published in the FEDERAL REGISTER forthwith.

Dated: August 25, 1978.

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

[FR Doc. 78-24700 Filed 8-31-78; 8:45 am]

[4510-26]

Title 29—Labor

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

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

[Docket No. H-052A]

Occupational Exposure to Cotton Dust; Cotton Waste Processors and Users; Suspension of effective Date of Standard; Request for Comments

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Suspension of effective date of standard and request for comments.

SUMMARY: This notice suspends the application of the cotton dust standard, 29 CFR 1910.1043 (43 FR 27350), as it pertains to the cotton waste processing industries and employers who are purchasers and users of cotton batting, including employers in mattress,

upholstered furniture, and automotive assembling industries; and invites comment on the draft NIOSH health hazard evaluation of employees in two Stearns and Foster mattress plants. As to all other industries, the cotton dust standard will be effective, as scheduled, on September 4, 1978.

DATES: All comments on the draft study must be postmarked on or before October 20, 1978.

ADDRESS: Copies of the draft study are available at, and comments should be sent to, the Docket Office, Docket H-052A, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8151.

FOR FURTHER INFORMATION CONTACT:

Patti Waugh, OSHA, Room N-3718, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7084.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration (OSHA), in the FEDERAL REGISTER issue of June 23, 1978 (43 FR 27350), published a final occupational safety and health standard, pursuant to section 6(b) of the act, regulating worker exposure to cotton dust. The standard applies to all industries in which employees are exposed to cotton dust, with certain specified exceptions, and requires employers to take prescribed measures to control employee exposure to cotton dust. The standard is effective September 4, 1978.

During the course of the rulemaking which led up to issuance of the standard, testimony and comments from the public on the coverage of various non-textile industries, was presented. The permanent standard was based upon a careful consideration of all the evidence submitted during the entire rulemaking proceeding. On the basis of that review, OSHA concluded that the "overwhelming evidence [is] of a serious hazard to workers from exposure to cotton dust regardless of where exposure is encountered." With limited exceptions, the permanent standard was therefore made applicable to all non-textile industries, including cottonseed oil mills, waste processing industries, and users of cotton batting, as well as to the textile industry.

Since the publication of the permanent cotton dust standard, OSHA has received a request for an administrative stay of the standard from the National Cotton Batting Institute and the Textile Fibers and By-Products Association, with respect to the cotton waste processing industries and employers who are purchasers and users of batting containing cotton. This request brought to OSHA's attention for the first time a draft report of a NIOSH health hazard evaluation of Stearns and Foster garnetting and mattress workers. This report was not available prior to promulgation of the final standard. Upon preliminary review of this report, OSHA has determined that the information it presents warrants further review and analysis.

While this new evidence was received after the close of the record in cotton dust, and therefore need not be considered as part of this proceeding, OSHA has determined to invite comment on the significance of this evidence and, in the meantime, to suspend the cotton dust standard as it pertains to the waste processing industries and users of cotton batting. OSHA hereby announces the suspension and invites comments on the NIOSH draft report, insofar as it may bear on the extent of the health risk to employees in these industries who are exposed to cotton dust. The report is available for inspection and copying at the Docket Office, Docket No. H-052A, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

After evaluation of this report and the written comments submitted, the Assistant Secretary will determine whether or not further proceedings, e.g., reopening the record for additional comments or instituting a new rulemaking proceeding, are warranted. If it is determined that further proceedings are not required, appropriate notice will be given of a new effective date for the standard, as it applies to these industries.

Therefore, interested persons are invited to submit written data, views, and arguments pertinent to this report. These comments must be postmarked on or before October 20, 1978, and submitted in quadruplicate to the Docket Office, Docket No. H-052A, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. The data, views, and arguments that are submitted will be available for public inspection and copying at the above address.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

[Secs. 4, 6, 8, 84 Stat. 1593; 29 U.S.C. 653, 655, 657; 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059)]

Signed at Washington, D.C., this 30th day of August, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-24854 Filed 8-31-78; 8:45 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 Which Govern Surety Companies Doing Business With the United States

AGENCY: Bureau of Government Financial Operations, Treasury Department.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is amending its regulations governing surety companies doing business with the United States to change the procedure of issuing annual renewal certificates of authority to qualified surety companies in 31 CFR 223.3 and to update the reinsurance form numbers in § 223.11 to correspond to new Standard Form designations assigned by the General Services Administration.

EFFECTIVE DATE: September 1, 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. telephone 202-634-5978.

SUPPLEMENTARY INFORMATION: The Department of the Treasury issues certificates of authority annually to qualified surety companies certifying them authorized as acceptable sureties and reinsurers on Federal bonds. Annual issuance of the certificates requires a significant amount of unnecessary time and paperwork. Presently, the certificates are issued when companies initially become authorized to do business with the United States. The certificates expire on June 30 each year, and new certificates are issued effective July 1. The revised regulations continue the issuance of certificates when companies initially become authorized, but discontinue the practice of sending new certificates each year. Instead, the original certificates will be renewed July 1 by Treasury's annual underwriting limitation letter to authorized companies. This will eliminate the need to print, type, proof, and sign approximately 280 certificates of authority on a yearly basis.

In addition, authorized companies obtain reinsurance to protect bonds required to be furnished to the United States, which is executed through use of Treasury reinsurance agreement forms. The forms were recently standardized by the General Services Administration. The regulations have been updated in order to reflect the Standard Form numbers and the addresses where the forms may be obtained.

The Department finds that notice to the public respecting the foregoing amendments to 31 CFR, part 223 is not appropriate or necessary as the amendments' sole purposes are to reduce an administrative burden which will have minimal public effect and to update the regulations to reflect current form numbers.

In consideration of the foregoing, amendments to part 223 of 31 CFR, chapter II are hereby adopted as follows.

1. By revising the last sentence of paragraph (a) of § 223.3 to read:

§ 223.3 Issuance of certificates of authority.

(a) * * * The certificate of authority shall be renewed 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).

* * * * *

2. By revising the last sentence of paragraph (b) of § 223.11 to read:

§ 223.11 Limitation of risk: Protective methods.

* * * * *

(b) * * * Reinsurance shall be executed on reinsurance agreement forms (Standard Form 273 for Miller Act Performance bonds (formerly form No. TFS 6317), Standard Form 274 for Miller Act Payment bonds (formerly form No. TFS 6318), and Standard Form 275 for other types of Federal bonds (formerly form No. TFS 6319)). Federal bond-approving officers may obtain the forms by submitting a requisition in FEDSTRIP/MILSTRIP format to the General Services Administration regional office providing support to the requesting Government organization. In addition, the forms are available to authorized sureties and reinsurers from the Superintendent of Documents, Government Printing Office, Stop: SSMC, Washington, D.C. 20401.

§ 223.11 [Amended]

3. By deleting the footnote[1] from the end of paragraph (b) of § 223.11. This footnote is no longer applicable.

Dated: August 28, 1978.

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

[FR Doc. 78-24671 Filed 8-31-78; 8:45 am]

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS

PART 902—OFFICER TRAINING SCHOOL, USAF (OTS)

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

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on the Officer Training School to show a transfer of responsibilities and generally update and clarify the rule.

EFFECTIVE DATE: September 30, 1976.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Hoefelmeyer, Air Force Military Personnel Center, Directorate of Personnel Procurement; Programs (AFMPC/MPCMR), Randolph Air Force Base, Tex. 78148, phone 512-625-2102.

SUPPLEMENTARY INFORMATION: Part 902 of chapter VII, title 32 of the Code of Federal Regulations is revised to transfer responsibilities formerly delegated to USAFRS to AFMPC/DPMMOP. This revision adds the requirement for USAFRS to provide additional data on OTS selectees; and revises the section outlining procedures for the administration of OTS.

This revision is issued under authority of secs. 8012, 9411, 70A Stat. 488, 571; 10 U.S.C. 8012, 9411.

The revised part will read as follows:

Subpart A—Administering the Program

Sec.
902.1 Purpose.
902.2 Terms explained.
902.3 OTS mission and objectives.
902.4 Responsibilities.
902.5 OTS selection boards.
902.6 Sources of information.
902.7 Direct communication.

Subpart B—Application for and Assignment to OTS

Sec.
902.8 Eligibility requirements.
902.9 Who is ineligibile to apply.
902.10 Processing and assigning applicants.
902.11 Required security investigations.
902.12 How clothing is provided.
902.13 Disposition of applications and supporting papers.

Subpart C—Administrative Procedures for Officer Trainee Students Enrolled in OTS

902.14 Administration of officer trainees.
902.15 Arrival and accession.
902.16 Elimination of officer trainees.
902.17 Action taken when officer trainees are held over.
902.18 Graduation and commissioning actions.

Subpart D—Posthumous Appointments

902.19 When to make posthumous Reserve appointments.
902.20 How posthumous appointments are made.

Subpart E—Procedures and Requirements

902.21 Educational qualifications.
902.22 Special requirements.
902.23 Mental qualifications.
902.24 USAFR and ANG requirements.
902.25 Processing, waiver, and selection responsibilities.
902.26 Preliminary processing of application.
902.27 Enlistment and assignment of selected applicants.
902.28 Promotion of airmen on active duty scheduled to attend OTS.
902.29 Disposition of eliminated officer trainees.
902.30 Procedures for eliminating students from OTS.
902.31 Processing students eliminated from OTS.

AUTHORITY: Secs. 8012, 9411, 70A Stat. 488, 571 (10 U.S.C. 8012, 9411).

NOTE.—This part is derived from Air Force regulation 53-27, September 30, 1976, including change 1, September 19, 1977.

Subpart A—Administering the Program

§ 902.1 Purpose.

(a) This part explains how to apply for Officer Training School, USAF (OTS); how commands process applications; and how officer trainees are administered while enrolled in OTS. It applies to all applicants and all commands and activities that process OTS applications, including United States Air Force Reserve (USAFR) and Air National Guard (ANG) activities. This part is affected by the Privacy Act of 1974. Each form that is subject to the provisions of part 806b of this chapter and required by this part contains a Privacy Act statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

(b) Part 806 of this chapter states the basic policies and instructions gov-

erning the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 902.2 Terms explained.

(a) *Applicant.* An individual who applies for OTS and is processed within the procurement criteria as established by this part.

(b) *Holdover.* An officer trainee who has completed all training requirements for commissioning but has not received either medical, security, or administrative clearance by graduation date. Such trainees are reassigned to a later class for either commissioning or disenrollment.

(c) *Officer candidate-type training program.* Any of the officer training programs as defined in AFR 53-5.

(d) *OTS program.* An Air Force commissioning program for college graduates.

(e) *Reasons for elimination:* (1) Academic deficiency—failure to achieve a passing score on the airmanship final examination including examinations retaken later.

(2) Flying training deficiency—failure to meet requirements of the flight screening program syllabus. (For use in the flight screening program (FSP) for pilot candidates.)

(3) Lack of aptitude for commissioned service—lack of the personal capacity and inclination either natural or acquired to adapt to military relationships, customs, and responsibilities which have become traditional and necessary in military service.

(4) Manifestations of apprehension (MOA)—exhibition of a condition to a degree which impairs the student's ability to satisfactorily execute flying duties, procedures and maneuvers. (For use in the FSP for pilot candidates.)

(5) Medical—failure to maintain the physical standards required to complete the program for which enlisted.

(6) Military training deficiency—failure to achieve passing scores on written performance measurements or performance ratings.

(7) Prejudicial conduct—defective attitude, improper conduct, a lack of responsibility toward assigned duties, or toward continued military service, or the character disorders over which a student has control and which raises doubt regarding the student's fitness for continuation in training.

(8) Self-initiated elimination (SIE)—withdrawal resulting from a student's written request for elimination.

(f) *Tentatively qualified applicant.* An applicant who has been determined eligible for OTS after preliminary processing.

(g) *OTS report date.* Date selectees scheduled to attend OTS must report, normally not earlier than (NET) 0700 hours, and not later than (NLT) 1630 hours, 2 workdays before OTS class starting date.

(h) *Officer trainee (OT).* A student undergoing training at the Officer Training School, USAF.

(i) *Elimination.* The formal disenrollment of a student from training as a result of faculty board or adminstrative action.

(j) *Reclassification.* A student who becomes disqualified to continue training in the career field for which entered into OTS but who remains qualified to continue training in a different career field on approval of AFMPC/DPMM.

(k) *Recycle.* An officer trainee removed from training through faculty board, medical, or administrative action and reentered in training in a later class.

(l) *Reports.* Reports required under this part for OTS have been assigned RCS: MPC-DPMM(AR) 7603.

§ 902.3 OTS mission and objectives.

(a) *Mission.* The OTS mission is to train and commission candidates as second lieutenants in response to USAF, ANG, and USAFR requirements.

(b) *Objectives.* OTS objectives are to:

(1) Provide: (i) Sufficient numbers of newly commissioned officers with the qualification to meet changing Air Force manpower requirements.

(ii) An orderly transition to commissioned service.

(iii) The essential military knowledge and skills a newly commissioned Air Force officer needs to perform effectively.

(2) Instill in each graduate:

(i) High standards of conduct morality, integrity, and honor.

(ii) Attitudes and interests congruent with a career as an Air Force officer.

(3) Identify and eliminate trainees who do not meet the standards required of commissioned officers in the Air Force.

§ 902.4 Responsibilities.

(a) HQ USAF/DPPP determines annual OTS production objectives.

(b) AFMPC/DPMMOP: (1) Provides Air Staff supervision of OTS.

(2) Provides annual objectives and monitors production.

(3) Acts on reclassification requests on those individuals who, after entering OTS, are found disqualified for the career area in which enlisted but remain qualified for commissioning in another career area. AFMPC/DPMMOP coordinates with AFMPC/DPMMOA to ensure that an Air Force requirement exists, and that the individual possesses the necessary qualifications to satisfy that requirement.

(4) Provides OTS class entry and graduation schedules. This includes the establishment of class sizes, determining quotas for the various categories of personnel, initiating and distributing class schedules, and monitoring each class in training.

(5) Provides written procedures for officer trainee administrative and personnel actions governed by this part.

(6) Maintains statistical data regarding OTS production.

(c) Air training Command (ATC). ATC monitors the overall mission of OTS, including the establishment of class entry and graduation dates.

(d) U.S. Air Force Recruiting Service (USAFRS):

(1) Procures applicants and completes final processing for active duty quotas, including accepting or rejecting applicants and assignments to OTS classes.

(2) Through local recruiters, maintains liaison with professors of aerospace studies (PAS) at colleges and universities hosting Air Force Reserve Officers' Training Corps (AFROTC) detachments, to coordinate visits by recruiting service personnel.

(3) Coordinates written instructions for the recruitment of OTS applicants with AFMPC/DPMMOP.

(4) Provides: (i) AFMPC/DPMMOP and AFMTC/3700 Personnel Resources Gp/DPPRO NET 7 calendar days and NLT 4 calendar days before each OTS class entry date, a final class by-name listing, to include projected officer AFSC of each OTS selectee.

(ii) 3700 Personnel Resources Gp/DPPRO NET 30 calendar days and NLT 25 calendar days before each OTS class reporting date, a copy of the AF Form 56, Application for Training Leading to a Commission in the U.S. Air Force and college transcripts for each OTS selectee. For active duty selectees, include a copy of the current record review listing and copies of all prior service documents (such as: DD Form 4, Enlistment or Reenlistment Agreement—Armed Forces of the United States and DD Form 214, Report of Separation from Active Duty, Reserve discharge orders, statements of service, etc.) submitted with the selectee's application or acquired during the selection process.

(e) Air Force Institute of Technology (AFIT). AFIT coordinates class quotas with AFMPC/DPMMOP for persons selected under the airman education and commissioning program (AECP) and provides AFMPC/DPMMOP and 3700 Personnel Resources Gp/DPPRO a final class by-name listing, to include projected officer AFSC, NET 7 calendar days and NLT 4 calendar days before each class entry date.

(f) Air Force Military Training Center (AFMTC/3700 Personnel Resources Gp) sends official transcripts for each graduate of OTS to the Air Force Institute of Technology (AFIT), Wright Patterson AFB, OH 45433.

(g) OTS: (1) Commissions all OTS graduates.

(2) Designates up to 20 percent per year of the officer trainees as distinguished graduates (DG's).

(h) The Chief, National Guard Bureau (NGB), (these responsibilities may be delegated):

(1) Selects individuals to attend OTS within established NGB quotas.

(2) Issues invitational letter and class assignment to selected individuals.

(i) Headquarters, Air Force Reserve (AFRES) (these responsibilities may be delegated);

(1) Selects individuals to attend OTS within established AFRES quotas.

(2) Issues invitational letter and class assignment to selected individuals.

(j) Consolidated Base Personnel Office, Classification and Training Unit (CBPO/DPMPC). Completes preliminary processing of USAF active duty applicants and, in remote areas, of civilian applicants. CBPO/DPMPC advises USAFRS/RSOPO of any changes in assignment and eligibility status of OTS applicants.

(k) Officer Training Program Examining Centers (OTPEC's);

(l) Fulfill responsibilities in AFR 23-11, Officer Training Program Examining Centers (OTPEC's):

(2) Forward Air Force officers qualifying test (AFOQT) results and other required documents within 10 workdays to the Personnel Research Division, Air Force Human Resources Laboratory (AFHRL), Brooks AFB, TX 78235, according to AFM 35-8, Air Force Military Personnel Testing System.

(l) Unit commanders. For airmen applying for or selected for OTS, commanders must monitor their performance for disqualifying factors. If such factors become apparent after submission of application, promptly notify USAFRS/RSOPAO in writing through the CBPO. Provide the same information for selectees up to the time of actual departure for OTS. Particular care must be taken to make sure that any infraction, adverse change in attitude or personal appearance, decline in duty performance, etc., is reported.

§ 902.5 OTS selection boards.

USAFRS, NGB, and AFRES each appoint a board of officers (selection board) to review OTS applications and make final selections.

§ 902.6 Sources of information.

Information about OTS may be obtained from:

(a) Air Force recruiting offices.

(b) CBPO/DPMPC units.

(c) ANG or USAFR units.

(d) Base education service centers.

§ 902.7 Direct communication.

(a) USAF recruiting activities are authorized to correspond directly with all OTPEC's and Air Force bases regarding recruiting activities, individual applicants, and administrative details.

(b) Direct communication is authorized between OTPEC's, State adjutants general, and ANG and USAFR unit commanders regarding matters pertaining to individual applicants and administrative details.

Subpart B—Application for and Assignment to OTS

§ 902.8 Eligibility requirements.

To be eligible for this program, an applicant must:

(a) Be a citizen of the United States.

(1) An applicant must present documentary evidence of citizenship and age (birth certificate or other legal documentation for verification of age and naturalization certificate if not a citizen by birth). These documents are returned to the individual and do not become a part of the application.

(2) An applicant who is not a U.S. citizen by birth must furnish a statement signed by an officer, notary public, or other person authorized by law to administer oaths as follows: "I certify that I have this date seen the original Certificate of Naturalization Number ——— (or certified copy of the court order establishing citizenship) stating that (full name of applicant) was admitted to United States citizenship by the Court of (district or county) at (city and state) on (date)."

NOTE.—Facsimiles, copies, photostats, or reproduction of naturalization certificates, or any part thereof, are prohibited by law. Violation is punishable by a fine or not more than $5,000 or imprisonment of not more than 5 years, or both (18 U.S.C. 1426(h)).

(b) Be commissioned before reaching age 30, if applying for nonflying duty. (AFMPC/DPMMOP may waive maximum age restriction for outstanding and deserving airmen on active duty who can complete all requirements and be commissioned before reaching age 35.) If applying for flying training, individual must be commissioned and entered into flying training before reaching age 27½.

(c) Be of good moral character and possess the personal qualities desired of a commissioned officer.

(d) If USAFR or ANG applicant, meet the additional qualifications shown in §§ 902.24.

(e) Be medically qualified to enter the program for which applying. (Applicants do not complete a physical examination unless selected for OTS.)

(f) Be otherwise qualified for a commission.

(g) Meet the additional eligibility criteria shown in § 902.21 and 902.22, and possess the required documents as shown in §§ 902.23 and 902.26.

§ 902.9 Who is ineligible to apply.

An individual is ineligible for this program who is:

(a) An airman based in the CONUS and selected for an oversea assignment.

(b) An airman who has submitted an application for a hardship discharge.

(c) A person not eligible for enlistment or reenlistment in the Air Force under part 888 of this chapter and AFR 35-16, volume I, USAF Re-enlistment and Retention Program (or ANGR 39-09 for ANG applicants).

NOTE.—Does not include individuals who failed to meet grade restrictions under AFR 35-16, volume I. Warrant officers from other branches of the Armed Forces, desiring to apply for OTS, should attach to their application a request for waiver of part 888 of this chapter.

(d) An airman being considered for separation for unsuitability or misconduct, or who has had a personnel security clearance denied or revoked.

(e) An airman undergoing court-martial proceedings or being investigated for any offense. (Includes an airman who refuses punishment under Article 15, UCMJ, and requests trial by court-martial.)

(f) An airman on the control roster.

(g) An applicant who has a record of conviction by court-martial or civil court. (A waiver of minor offenses, including traffic violations, may be requested if required for enlistment or reenlistment under part 888 of this chapter and AFR 35-16, volume I. Part 888 contains definitions of "minor offenses." A waiver may not be granted for an offense involving moral turpitude.) Waiver requests must be approved by the base commander and are submitted with the application.

(h) A person whose entry into or retention in the Air Force may not be clearly consistent with the interest of national security (AFR 35-62, Security Program).

(i) A person who:

(1) Holds or has held a commmission in any of the U.S. Armed Forces.

(2) Holds a certificate of completion of a course leading to a commission in any of the U.S. Armed Forces, and the commission is to be granted at a later date.

(3) Is a member of a Reserve Force, other than the USAFR or ANG, and has not obtained a conditional release.

(4) Is in the active military service of the United States, other than the Air Force.

(j) A conscientious objector, or has any reservations regarding the oath of office.

(k) A Selective Service System registrant and has been ordered to report for active military service with one of the armed services unless released by the Selective Service board.

(l) A person who has been determined to be a substantiated drug abuser and who has not successfully completed the Air Force rehabilitation program. However, a member who has successfully completed rehabilitation is eligible for this program. Additionally, procurement commands have authority to waive preservice drug abuse in unusual and deserving cases (AFR 30-2, Social Actions Program).

NOTE.—Does not include a member enrolled in the Air Force alcohol rehabilitation program who is eligible to apply for OTS. However, if selected, member is not scheduled for entry into OTS until successful completion of the rehabilitation program.

(m) A person who, while on extended active duty (EAD), was permanently disqualified from the human reliability program (AFR 35-99, Human Reliability Program) or the personnel reliability program. Waivers must be approved by AFMPC/DPMRPP.

(n) An applicant who was selected for OTS but declined to attend is ineligible to reapply for a period of 6 months from date of declination.

(o) An applicant who was not selected by two consecutive selection boards, or one selection board and requests the application be withdrawn, is ineligible to reapply for a period of 180 calendar days from date the second selection board is convened or the date of the withdrawal letter.

§ 902.10 Processing and assigning, applicants.

(a) Section 902.25 prescribes processing, waiver, and selection responsibilities.

(b) Section 902.26 outlines preliminary processing criteria and the documents required.

(c) Section 902.27 and § 902.28 outline enlistment and assignment of selected applicants and promotion criteria for airmen on active duty scheduled to attend OTS.

§ 902.11 Required security investigations.

All applicants selected to attend OTS must have a favorable national agency check (NAC) completed before commissioning. Therefore, when a tentatively accepted applicant signifies, in writing, intentions to enter the assigned OTS class, personal security forms required by AFR 205-32, USAF Personnel Security Program, must be initiated immediately, unless records reflect the applicant has a current NAC or higher investigation. A prior entrance national agency check (ENTNAC) may be used to satisfy the investigative requirement provided it is less than 1 year old and is brought up to NAC standards by completion of the technical fingerprint check.

(a) The preliminary processing activity (§ 902.25) (CBPO/DPMPC or recruiting activity) assists applicant in completing required forms and forwards them to Personnel Investigation Center, Defense Investigative Service, P.O. Box 1083, Baltimore, Md. 21203. Make sure DD Form 1584, Department of Defense National Agency Check Request, is checked in item 17b to indicate "precommission." Enter in item 18 "Officer Trainee—Expedite" and the address of the CBPO or recruiting activity. Annotate FD form 258, FBI fingerprint card, in the reason fingerprinted block with "Officer Candidate-Air Force." Return NAC results to 3700 Personnel Resources Gp/DPPQA, Lackland AFB, Tex. 78236.

(b) One copy of DD Form 1584 is included in the personnel record group when reporting to OTS to indicate an NAC has been requested, unless a prior investigation meets the investigative requirement for appointment. (DD form 1584 is not completed when a prior investigation is acceptable.) An airman requires an NAC if the prior investigation was an ENTNAC, which was formerly known as a limited national agency check (LNAC), or has had a break in service of over 1 year since the prior investigation was conducted.

(c) The NAC must be completed and evaluated before an applicant can be given a firm OTS class assignment if he or she has made entries on the DD Form 398, Statement of Personal History, or DD Form 1966, Application for Enlistment—Armed Forces of the United States, which indicate that the enlistment or subsequent appointment may not be clearly in the interest of national security. AFR 205-32, attachment 9, contains criteria and factors to be considered in determining whether to delay the class assignment.

(d) Except as stated in paragraph (c) of this section, an applicant who requires an NAC may be given a firm OTS class assignment and enlisted for OTS. The CBPO/DPMPC unit or recruiting activity must initiate a request for an NAC as prescribed in the applicable Air Force, ANG, or AFRES directive and AFR 205-32. The applicant is advised that OTS graduation and appointment will not be permitted until the OTS commander is notified that a favorable NAC has been completed.

§ 902.12 How clothing is provided.

(a) Civilians are provided clothing under the clothing monetary allowance system.

(b) Airmen on active duty assigned TDY enroute to OTS report in uniform and current grade and continue to receive the clothing maintenance allowance to which entitled when entering the program.

(c) ANG and USAFR trainees are not authorized a clothing monetary allowance unless ordered to active duty for more than 6 months (DOD Military Pay and Allowances Entitlement Manual (DODPM), part 8, paragraph 80245).

(1) Members of the USAFR accepted for OTS are given a clothing inspection by their unit of assignment. All uniform items meeting replacement criteria in AFM 67-1, USAF Supply Manual, volume I, part one, chapter 17, paragraph 60c(2), are replaced on an item-for-item basic by the host equipment management office (EMO) or base equipment management office (BEMO). Required items listed in AFR 67-57, Uniform Clothing Allowances for Airmen, attachment 3, that have not been issued in the designated quantities to the Reserve airman, are obtained through a category 66 sale by the supporting EMO or BEMO according to AFM 67-1, volume IV, part 1, chapter 21, paragraph 7b.

(2) Other persons enlisting in the USAFR to attend OTS are given a complete clothing issue, as outlined in AFR 67-57, attachment 3, paragraph 3, at AFMTC.

§ 902.13 Disposition of applications and supporting papers.

Applications and related documents consisting of examining board proceedings which determined applicant's suitability, documents reflecting physical fitness, questionnaires, college transcripts, various certificates, and notice of qualified applicant's selection or declination, are disposed according to AFM 12-50, Disposition of Air Force Documentation.

Subpart C—Administrative Procedures for Officer Trainee Students Enrolled in OTS.

§ 902.14 Administration of officer trainees.

The procedures outlined in this subpart are the responsibilities of and apply to AFMTC/3700 Personnel Resources Group and the Officer Training School, USAF, in the administration and training of officer trainees.

(a) AFMTC/3700 Personnel Resources Group functions as the Consolidated Base Personnel Office (CBPO) for all officer trainees by providing support under a modified base

level military personnel system (BLMPS) concept known as processing and classification of enlistees (PACE) to support processing and accession data, classification, assignment, and other actions necessary to complete the military personnel file of trainees. This portion of the group is functionally organized as follows:

(1) Officer Trainee Processing Section (DPPRO).

(2) Special Actions Branch (DPPQA).

(b) Officer Training School, USAF provides precommissioning training to all officer trainees and is functionally organized, with delegated responsibilities delineated, as follows:

(1) Military Training Deputate (OTS/MT)—responsible for the management and control of all training functions relating to the precommissioning program.

(2) Flight Operations Deputate (OTS/FO)—responsible for the overall pilot and screening programs and the screening of candidates to determine their physical and phychological capabilities to continue in undergraduate pilot training.

(3) School Services Division (OTS/DT)—responsible for providing logistic and facility support to the deputies for military training and flight operations.

(i) Faculty Board Branch (OTS/DPT)—provides administrative support concerning faculty board actions.

(ii) School Unit Administration (OTS/DTQ)—monitors the delay status of newly commissioned officers awaiting departure to new units of assignment and is responsible for emergency leave processing of officer trainees.

§ 902.15 Arrival and accession.

(a) Each incoming OT is advised to report to DPPRO for initial in-processing.

(b) Each OT reporting to OTS provides DPPRO with an official college transcript that includes the "raised" seal of the school, registrar's signature, degree awarded, major academic area, and date degree was conferred. DPPRO advises an OT who arrives without a transcript, to immediately request a copy from the appropriate educational institution. Any problems encountered in obtaining transcripts are referred to AFMPC/DPMMOP, Randolph AFB, Tex. 78148. If eliminated from OTS, DPPRO returns the transcript to the OT. An OT is not commissioned until receipt of an official transcript. After each graduation, DPPRO assembles a package containing each OT's transcript and a class graduation roster and forwards to AFIT/RSST, Wright-Patterson AFB, Ohio 45433, within 15 workdays after graduation.

§ 902.16 Elimination of officer trainees.

(a) An OT may be eliminated from training for any of the following reasons:

(1) Academic deficiency.

(2) Flying training deficiency.

(3) Lack of aptitude for commissioned service.

(4) Manifestations of apprehension.

(5) Medical deficiency.

(6) Military training deficiency.

(7) Prejudicial conduct.

(8) Self-initiated elimination.

(9) Other (for example: Administrative reasons, indifference to training, unsuitability, undesirable traits of character, identification as a substantiated drug abuser, or for security reasons).

(b) When an OT is processed for elimination from OTS, DD Form 785, Record of Disenrollment from Officer Candidate-Type Training, is prepared and must include the reasons and circumstances of the elimination with specific recommendations for further training leading to a commission at a later date. Section 902.30 outlines elimination procedures.

(c) OTS/MT will not initiate elimination procedures for OTs due to medical reasons until the report of medical examination has been certified "disqualified" by the ATC Surgeon. Date of such certification must be included in the remarks section of the DD Form 785.

(d) An OT eliminated from OTS for any reason other than medical is ineligible to reapply unless waiver is approved by AFMPC/DPMMOP, Randolph AFB, Tex. 78148 (see §§ 902.8 and 902.9).

(e) An OT eliminated for medical reasons who is later determined physically qualified by ATC/SGPA may be reinstated. No formal application is required: *Provided,* The period between elimination and written request for reinstatement does not exceed 6 months. The needs of the Air Force, the qualifications of the individual, and the recommendations at time of elimination are carefully considered. Reinstatement is approved by AFMPC/DPMMOP in coordination with AFMPC/DPMMOA and OTS/MT and a determination made as to the phase of reentry.

§ 902.17 Action taken when officer trainees are heldover.

(a) OMT sends the names with the reasons for the holdover action to DPPRO NLT 7 workdays before graduation, for OT's who have not met the qualification requirements for graduation. Specifically, the names of OT's are submitted when they are pending:

(1) Receipt of the NAC;

(2) Medical qualification; or

(3) Any other action which could render the OT ineligible for graduation (such as pending board action, pending elimination, etc.).

§ 902.18 Graduation and commissioning actions.

(a) The faculty board conducts a precommissioning review of each OTs qualifications for commissions and prepares a report which:

(1) Indicates that OT is or is not mentally, morally, physically, and professionally qualified for appointment in the grade of second lieutenant.

(2) Recommends appointment or other disposition.

(b) When an OT is not recommended for a commission, the faculty board initiates appropriate elimination action, forwarding the report of the proceedings to AFMPC/DPMMOP.

(c) When an OT recommended for commissioning becomes involved with civil authorities and criminal charges (for other than minor traffic violations) are filed or pending, the faculty board withholds the commission until disposition of the case. If convicted, or the charges are not expected to be disposed of before the individual's projected commissioning date, the board sends the trainee's file to AFMPC/DPMMOP, for waiver determination.

(d) After the precommissioning review process is completed, the School Commandant insures the commissioning of qualified graduates and designates up to 20 percent of the OT's as distinguished graduates.

(e) OTS/MT appoints a board of officers to review the records of top students in each graduating class to select those OTs to be designated as distinguished graduate and honor graduate of their class on the basis of the OT's performance during the training course. To be designated as distinguished graduate, an OT must be in the academic upper third of the class and be recommended by the selection board. Officer trainees not in the academic upper third, but whose training records reflect overall exceptional performance, may be considered by the selection board if approved by the School Commandant. No more than 20 percent of the OTS Graduates per year may be designated distinguished graduates. OTS/MT notifies DPPRO NLT 4 workdays before graduation of all distinguished graduates and DPPRO announces such designations in the appointment orders. Presentation of the letter of recognition to each selected OT is made during the graduation ceremony.

Subpart D—Posthumous Appointments

§ 902.19 When to make posthumous reserve appointments.

An OTS student who was certified as qualified for appointment but died in

line of duty before appointment could be accepted, may be appointed posthumously.

§ 902.20 How posthumous appointments are made.

If considered appropriate, the OTS Commandant requests AFMPC/DPMMOP, Randolph AFB, Tex. 78148, to publish the posthumous appointment order. No financial benefits accrue as a result of such a posthumous appointment.

Subpart E—Procedures and Requirements

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

§ 902.21 Educational qualifications.

RULE	A	B	C
	If applicant	then applicant is	and
1	does not possess at least a baccalaureate degree from a college or university (see note 1) and is not enrolled in the senior year of a regionally accredited college or university	not qualified.	
2	possesses a baccalaureate of higher degree from a nonregionally accredited college or university listed in the Education Directory, Higher Education, as offering the baccalaureate degree, and a statement of acceptance to a graduate school of a regionally accredited college or university clearly stating the person is considered a graduate of a regionally accredited institution (see note 1)	qualified	attaches to the application one copy of an official transcript of college credits indicating the undergraduate or graduate degree awarded, major subject(s), grades received (see note 2), and the statement of acceptance to a graduate school of a regionally accredited college or university.
3	possesses a baccalaureate or higher degree from a regionally accredited college or university listed in the Education Directory, Higher Education, as offering the baccalaureate or higher degree (see note 1)		attaches to the application one copy of an official transcript of college credits indicating the undergraduate or graduate degree awarded, major subject(s), and grades received (see note 2).
4	possesses a degree from a foreign college or university		complies with rule 3C plus submitting evidence that college credits are acceptable for graduate work by a US regionally accredited institution (see note 2).
5	is enrolled in the senior year at a regionally accredited college or university and is within 180 calendar days of graduation (see note 3)		attaches to the application a copy of an official college transcript indicating all courses completed or currently being undertaken, and a statement from the Registrar certifying to the scheduled graduation date, degree to be awarded, major subject(s), and grade point average (see notes 2 and 4).

NOTES: 1. The Education Directory, Higher Education, (published annually by the Department of Health, Education and Welfare) lists the accreditation status and the highest offering for colleges and universities in the United States and its outlying areas.

*2. Official transcripts that includes the raised seal from each college or university attended is required.

3. A college senior may apply as early as 180 calendar days before graduation if the OTS availability date coincides with the application schedule available at USAF Recruiting Service offices. For example, a June graduate may apply in December, if availability for entry into the first OTS class begins after graduation date.

4. A complete transcript evidencing award of the degree or documentary evidence that a degree has been awarded must be presented at time of enlistment.

§ 902.22 Special requirements.

RULE	A	B	C
	If applicant qualifies under paragraph 8 and table 1 and is	and has	then the applicant is
1	a member of a Reserve Force other than the USAFR	obtained a conditional release from the specific service	qualified.
2		not obtained a conditional release from the specific service	not qualified.
3		received orders for call to active military service in any of the armed forces other than the Air Force	
4	in the active military service of the United States other than the Air Force		
5	one who has been disenrolled from an officer candidate-type training program		tentatively qualified (see note).

NOTE: The military services use DD Form 785, (AFR 53–5) to exchange information on personnel disenrolled from officer candidate-type training programs who later apply for other programs. The DD Form 785 becomes a part of and is forwarded with the application. Only AFMPC/DPMMOP, Randolph AFB TX 78148, may waive the disenrollment record of former service academy cadets and personnel disenrolled from other officer training programs for specific reasons stated in AFR 53–5. Requests for waiver are forwarded with application for OTS to USAFRS/RSOPO, Randolph AFB TX 78148.

§ 902.23 Mental qualifications.

RULE	A	B	C
	If applicant qualifies under paragraph 8 and tables 1 and 2 and is applying for	then applicant completes (see note)	and the minimum qualifying scores are
1	flying (pilot or helicopter) training	all five composites of the AFOQT	at least 25 percentile in the pilot composite and at least 10 percentile in the navigator composite with the total score in these two composites being at least 50 percentile.
2	flying (navigator) training		at least 25 percentile in the navigator composite and at least 10 percentile in the pilot composite with the total score in these two composites being at least 50 percentile.
3	nonflying duties (male and female)	only the Officer Quality, Verbal, and Quantitative composites	no minimum scores established.

NOTE: ANG and USAFR units may administer the AFOQT if they have the proper facilities (see AFM 35–8); otherwise, they may arrange for examinations through the nearest Air Force recruiting activity or Air Force base. AFOQTs administered by Recruiting Service may be scored by OTPECs or in Recruiting Service detachments. AFOQTs administered to OTS applicants by AFROTC units are scored by Recruiting Service detachments. Travel and transportation expenses of a USAFR applicant from his or her home to the place of testing and return are not authorized at Government expense. Enter AFOQT results on AF Form 56, item 8.

§ 902.24 USAFR and ANG requirements.

RULE	A	B
	If an applicant	then applicant must be qualified, available, and scheduled for assignment on graduation to a lieutenant or captain vacancy which exists or is projected at the time of application and when selected must enlist for a period of
1	has no prior service and is under 26 years of age	6 years to coincide with the incurred military obligation.
2	has no prior service and is over 26 years of age	1 year.
3	is without military status or has prior service and no remaining military obligation	

§ 902.25 Processing, waiver, and selection responsibilities.

RULE	A	B	C	D
	If the applicant is	then preliminary processing is the responsibility of the	and authority to grant or deny waivers of minor offenses or violations is delegated to	and applications are forwarded for final processing, verification, and selection board action to
1	a USAF airman	applicant's servicing CBPO/DPMPC	the commander with direct control over the CBPO that maintains the applicant's personnel record	USAFRS/RSOPO Randolph AFB TX 78148.
2	an ANG applicant		the State adjutant general	NGB/DPT Wash DC 20310.
3	a USAFR applicant		AFRES (authority may be delegated to regions)	AFRES/DPAT Robins AFB GA 31098.
4	a civilian	USAF Recruiting Detachment	USAF Recruiting Service	USAFRS/RSOPO Randolph AFB TX 78148.
5		CBPO when applicant resides in oversea area	Base Commander of installation where applying, when in oversea area	

§ 902.26 Preliminary processing of application.

If an applicant eligible under tables 1 through 5 (see note 1) is		RULE			
		1	2	3	4
*A	a USAF airman (see note 5).	Yes			
B	a USAFR applicant		Yes		
C	an ANG applicant			Yes	
D	a civilian applicant				Yes
then the authority designated in table 5					
E	types AF Form 56 in duplicate.	X			X
F	types AF Form 56 in triplicate.		X	X	
G	prepares AF Form 2061, USAF Drug Abuse Certificate.	X	X	X	X
H	prepares AF Form 2031, Drug Abuse Circumstances, when required.	X	X	X	X
I	attaches copy of transcript of all college credits.	X	X	X	X
J	attaches evidence of acceptability of college credits, when required.	X	X	X	X
K	attaches certificate of impending graduation, when required.	X	X	X	X
L	attaches a current copy of the Record Review Listing (RRL) and last three Airman Performance Reports.	X			
M	attaches conditional release, when required.		X	X	X
N	attaches DD Form 785, when required.	X	X	X	X
O	attaches enlistment agreement, as required.		X	X	
P	attaches statement of ANG agreement (see note 2).			X	
Q	attaches statement of USAFR agreement (see note 2).		X		
R	attaches approved waivers, when required.	X	X	X	X
S	determines requirement for a National Agency Check and notifies USAFRS/RSOPO at time application is forwarded (paragraph 11).		X	X	X
*T	changes "Assignment Availability" to indicate ineligibility for PCS move, pending selection or nonselection to OTS include date entered on code 05 in cover letter.	X			
*U	reviews application and attached documents for accuracy and completeness (including all required signatures) and sends, with cover letter, before the selection cutoff date, to the final processing activity.	X	X	X	X
V	attaches completed AF Form 90 in triplicate.	X	X	X	
*W	attaches letter of evaluation by squadron commander (see note 3).	X			
*X	schedules physical examination when notified by USAFRS/RSOPO (see note 4).	X			X

NOTES: 1. Rules 1E, 4E, 2F, and 3F also apply to applicants who meet all basic eligibility criteria except medical qualification.

2. Attach to each copy of the form completed (original to original, etc), a copy of one of the following statements:

a. For ANG applicant: "I desire to enter the Officer Training School under the Air National Guard quota. I agree to accept an appointment as a Reserve of the Air Force officer, if tendered, and an appointment in the Federally recognized Air National Guard on graduation. I further agree to serve as a commissioned officer of a Federally recognized Air National Guard unit or other United States Air Force Reserve unit as directed for at least 4 years after appointment or for the length of time needed to satisfy my military service obligation, whichever is greater. I understand that failure to participate for reasons within my control may result in discharge action under ANGR 39–10."

b. For USAFR applicant: "I desire to enter the Officer Training School under the United States Air Force Reserve quota. I agree to accept an appointment as an officer in the United States Air Force Reserve, if tendered; to meet training requirements of the Ready Reserve element to which I am assigned; and to remain assigned to that program element for 4 years or for the time necessary to satisfy my military service obligation, whichever is greater. I understand that failure to participate for reasons within my control may result in discharge action under AFR 35–41, volume III, chapter 3."

*3. Letters of evaluation from unit commanders must specifically address the applicant's potential for commissioning. These letters also must contain a statement that the applicant does or does not have any assignment limitations. If the applicant does have assignment limitations, a detailed explanation of these limitations must be furnished. Applications which do not contain these statements will not be accepted.

*4. On completion of physical examination, forward the original and three copies of the SF 88, Report of Medical Examination and SF 93, Report of Medical History to USAFRS/RSOPO, Randolph AFB TX 78148. After the physical examination has been certified by ATC/SG as qualified, the processing activity is notified by class assignment letter. If applicant has been determined not qualified by the examining facility, forward three copies of the SFs 88 and 93 to USAFRS/RSOPO for review by ATC/SG. The ATC Surgeon is the final determining authority.

*5. An airman applying from a CONUS base who was entitled to a DLA on departure from previous duty station, will not be scheduled for OTS until completion of the DLA restriction. (EXCEPTION: An airman who must be commissioned before age 35 and was granted an age waiver for OTS, may request a DLA waiver, if required.) An airman applying from an oversea area where the normal tour is 18 months or longer must complete at least one-half of the tour before being returned to the CONUS for entry into OTS; an airman serving a tour of less than 18 months must complete at least 9 months. The earliest date application may be submitted is 180 calendar days before tour adjustment date. For example: An airman serving a 36-month oversea tour with a 15 October 1979 DEROS may submit an application no earlier than 17 October 1977. This date is arrived at as follows: If selected for OTS, airman must complete 18 months of current tour before being returned to the CONUS for entry into OTS. This would adjust the tour to 15 April 1978 (DEROS). Therefore, the earliest date airman could submit an application would be 17 October 1977, which is 180 calendar days before tour adjustment date (15 April 1978). The latest date application can be submitted is the 25th day of the 7th month before DEROS month.

§ 902.27 Enlistment and assignment of selected applicants.

RULE	A	B	C	D
	If the processing step is	and the applicant is	then	takes action to
1	enlisting	a civilian	the preliminary processing activity (table 5)	enlist applicant in the Regular Air Force and advise the applicant that; if eliminated from OTS for other than medical reasons, unsuitability, or misconduct; voluntarily changes utilization field from flying to nonflying; or becomes medically disqualified for flying training;, applicant must elect in writing to either complete the 4-year enlistment or be immediately discharged (see notes 1 and 2).
2		a USAFR airman		enlist under AFR 33–3.
3		an ANG airman		enlist under ANGR 39–09.
4	assigning to OTS	a civilian		assign to OTS.
*5		a USAF airman		publish PCS orders, on receipt of assignment notification from USAFRS, to end assignment with TDY en route at OTS and forward UPRGp to arrive at AFMTC/3700Pers Resources Gp/DPPRO, Lackland AFB TX 78136, NLT 25 calendar days before OTS class reporting date (see notes 3, 4, and 5).
6		a USAF airman overseas accompanied by authorized dependents		
7		a USAFR or ANG airman		assign to OTS in active duty for training status.
8	extending enlistment	a USAF applicant with less than 6 months of service remaining (see note 6)		ensure that airman extends enlistment contract before departing unit of assignment to ensure sufficient retainability to complete the training.
9		an ANG airman		ensure that airman extends or reenlists under ANGR 39–09.
10	adjusting grade	serving in pay grade E–5 or higher	the preliminary processing activity (table 5)	none; airman serves in current grade.
11		serving in pay grade below E–5		promote airmen on active duty according to table 8.
12		civilian	AFMTC/3700 Pers Res Gp	promote to grade E–5 according to AFR 39–29.
13	changing the Air Force specialty for which originally contracted	any candidate	AFMTC before or during training as applicable	counsel regarding the reason for the change and obtain signature agreeing to the change (see note 7).

NOTES: 1. A reservist in the OTS Delayed Enlistment Program (DEP) who refuses to enlist in the Regular Air Force is ineligible for OTS (AFR 33–5).

2. All applicants are informed that a voluntary change from a flying to a nonflying utilization field or a medical disqualification from flying training after commissioning does not serve as the sole basis for separation from the Air Force.

3. During relocation processing, the CBPO/DPMPC representative interviews applicant to determine if airman is still eligible and still desires officer training; notifies USAFRS and the MAJCOM if airman is no longer eligible or does not desire OTS.

*4. HQ AFMPC/DPMMOA furnishes USAFRS/RSOO end assignment instructions in projected officer AFSC, to be awarded on completion of OTS, 30 to 60 days before OTS class entry date. USAFRS/RSOO provides assignment instructions to CBPOs outside the system, however the assignments are not entered into the PDS since strength accountability remains with the losing CBPO till airman is commissioned. At that time, AFMTC/3700 Pers Resources Gp effects separation from enlisted status through the PDS. If airman fails to complete OTS, losing MAJCOM of assignment provides AFMTC/3700 Pers Resources Gp with assignment instructions.

*5. Airmen selected for OTS who return to the same duty station or organization are placed on TDY to OTS instead of PCS with TDY en route. CBPO/DPMUM, DPMUO, and DPMPP must ensure compliance with processing action in AFM 30–130, volume 1, chapters 18 and 19, paragraphs 18–17, 18–19e, and 19–14b. Since airmen attending OTS are not authorized BAS, BAS must be terminated before departure. Insert "none" in item 13, AF Form 626, Request and Authorization for Temporary Duty, and include in remarks the following statement: "BAS entitlement terminated upon airman's departure on TDY."

6. If a first-term airman in a variable reenlistment bonus (VRB) skill is administratively accepted or selected for OTS and reenlists after the date of acceptance or selection, airman is not entitled to the VRB, even though the reenlistment is considered a first reenlistment. The fact that official orders transferring airman to the training site have not been received is not a basis for entitlement to the VRB, since the reenlistment under these circumstances would not, in fact, be for continued service in the VRB specialty (Comptroller General Decision B-160096, 21 March 1969). An airman who enters OTS is not entitled to proficiency pay (AFR 39–45).

7. AFMPC/DPMMOA changes an officer trainee's Air Force specialty if the trainee's academic background and experience can be used better in another specialty or to meet changes in Air Force requirements.

§ 902.28 Promotion of airmen on active duty scheduled to attend OTS.

RULE	A	B
	If selected airman	then the servicing CBPO
1	is serving in grade E–4 or below	promotes to grade E–5 effective 1 day before issuance of PCS/TDY orders (see note 1).
2	is selected for promotion to grade E–5 or below and the effective date of promotion is before issuance of PCS/TDY orders	promotes on normal effective date provided airman is otherwise eligible.
3	is selected for promotion to grade E–5 or below and the effective date of promotion is on or after issuance of PCS/TDY orders	annotates personnel records to reflect promotion cycle, selected grade, and sequence number (see note 2).
4	is selected for promotion to grade E–6 or higher	promotes on normal effective date provided airman is otherwise eligible and promotion effective date occurs before OTS commissioning date.
5	fails to complete OTS and was promoted to grade E–5 to attend OTS	effects demotion according to AFR 39–30 to the grade held before entry into OTS. Effective date of demotion is the day airman arrives at new duty station (see note 3).

NOTES: 1. Promotion orders normally are not published earlier than 15 calendar days before departure date for OTS. However, to ensure entitlements to transportation of dependents and household goods at Government expense, promotion orders must be published before issuance of PCS orders.
2. Since airman will be serving in grade E–5 while attending OTS, no action is taken to effect promotion at time the promotion sequence number would be effected.
3. If airman is entitled to promotion based on previous promotion selection (rule 3), promotion is effective the day following demotion. Effective date of promotion is the date of orders. Date of rank is the appropriate monthly date as indicated by increment sequence number.

Refer to AFM 30-130, Vol. I, chapter 18, paragraph 18-19 Regarding POS actions on promotions.

§ 902.29 Disposition of eliminated officer trainees.

	If officer trainee entered OTS as	RULE 1	RULE 2	RULE 3
A	a nonprior service applicant specifically enlisted for OTS	Yes		
B	a prior service applicant (includes those entering from active duty or through the Airman Education and Commissioning Program (AECP)		Yes	
C	an ANG or USAFR applicant			Yes
	then trainee is processed for			
D	discharge for the convenience of the Government according to AFM 39–10 or reassignment according to table 11	X		
E	reassignment according to table 11.		X	
F	discharge or reassignment according to instructions received from the Chief, NGB, or AFRES.			X

§ 902.30 Procedures for eliminating students from OTS.

RULE	A	B
	If elimination results from	then procedures for elimination is by
1	flying training deficiency	faculty board action.
2	academic deficiency	
3	military training deficiency	
4	SIE when waiver of faculty board is not requested or request is disapproved	
5	MOA when waiver of faculty board is not requested or request is disapproved	
6	prejudicial conduct	
7	lack of aptitude for commissioned service	
8	medical disqualification	administrative withdrawal.
9	SIE when request for waiver of faculty board is approved	
10	MOA when request for waiver of faculty board is approved	
11	initial ineligibility	
12	unfavorable results of security investigation	
13	absence in excess of 30 calendar days from OTS for any reason	
14	administrative discharge action under AFMs 39–10 or 39–12 which precludes student's continued training	
15	death	

§ 902.31 Processing students eliminated from OTS.

If member being eliminated is to be processed for		RULE			
		1	2	3	4
A	discharge and is a nonprior service applicant (civilian)	Yes			
B	reassignment and is a nonprior service applicant (civilian)		Yes		
C	reassignment and is a prior service applicant (active duty)			Yes	
D	discharge or reassignment and is a USAFR or ANG candidate				Yes
then					
E	complete DD Form 785, indicating specific reason(s) for elimination and recommendation for future officer training.	X	X	X	X
F[1]	cancel projected officer accession in the APDS.	X	X	X	
G	adjust grade when required.		X	X	
H	contact trainee's servicing MAJCOM for reassignment instructions.		X	X	
I	when trainee elects in writing to complete enlistment contract on active duty, election statement is filed in the UPRG. When retention is elected, trainee may not request separation under the authority of this directive at a future date.		X		
J	when trainee requests, cancel enlistment extension under AFR 35–16, volume 1 (see table 7, rule 8).			X	
K	period of service in the airman grade as an officer trainee is counted when computing the service remaining under the original contract.		X	X	X
L	send a copy of the approved board proceedings to HQ AFRES, Robins AFB GA 31098, for USAFR trainees.				X
M	send a copy of the approved board proceedings to the Chief, NGB, Wash DC 20310, for ANG trainees.				X

[FR Doc. 78-24490 Filed 8-31-78; 8:45 am]

[3910-01]

SUBCHAPTER M—ANIMALS

PART 931—ANIMALS IN DOD RESEARCH AND TRAINING

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on animals in DOD research and training to incorporate amendments to Pub. L. 89-544, and to implement DOD Instruction 3216.1, August 31, 1976. The rule incorporates provisions of public laws and Federal regulations relating to marine mammals, endangered species, injurious species, and various other animals. The revision identifies armed services procurement regulation clause used in grants and contracts; assigns responsibilities for complying with Animal Welfare Act standards; adds reporting requirements on animal utilization; and adds requirements for local animal review committee to review programs involving laboratory animals for compliance with Animal Welfare Act standards.

EFFECTIVE DATE: August 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Col. J. W. Cable, Office of the Assistant Surgeon General for Veterinary Services, Headquarters USAF/SGV, Forrestal Building, Washington, D.C. 20314, phone 202-693-5926.

Part 931 is amended by revising the part heading to read as set forth above, and by revising the part in its entirety to read as follows:

Sec.
931.1 Purpose.
931.2 References.
931.3 Implementing policy.
931.4 Specific responsibilities.
931.5 Release of information.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; DOD Instruction 3216.1, August 31, 1976.

NOTE.—This part is derived from Air Force Regulation 169-2, August 12, 1977, including change 1, December 8, 1977. Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 931.1 Purpose.

This part gives the responsibilities, policies, and procedures on care and use of animals in Air Force research, development, test, and evaluation (R.D.T. & E.), clinical investigation, instruction programs, and other purposes. It also applies to all other organizations or persons who get Air Force funds to conduct programs where animals are used. It implements DOD Instruction 3216.1, Policy on Animals in DOD R.D.T. & E., Clinical Investigation, and Instructional Programs, August 31, 1976.

§ 931.2 References.

(a) DODI 3216.1, Policy on Animals in DOD R.D.T. & E., Clinical Investigation, and Instructional Programs, August 31, 1976.

(b) AFR 169-6, Clinical Investigation and Human Test Subjects in the Medical Service, September 13, 1976.

(c) AFR 190-12, Release of Unclassified Information to the Public, March 13, 1973.

(d) AFR 190-17, Review and Clearance of Department of the Air Force Information, October 17, 1975.

(e) Armed Services Procurement Regulation, Clause 7-303.44.

§ 931.3 Implementing policy.

It is Air Force policy to comply with DODI 3216.1 and all applicable legislative directives. This includes procurement, transportation, care, and use of animals in R.D.T. & E. clinical investigation, and educational and instructional programs by or sponsored by the Air Force. It also includes public information aspects pertaining thereto.

§ 931.4 Specific responsibilities.

(a) The Surgeon General has overall Air Force staff supervision over the use of animals in Air Force activities in the scope of this part.

(b) Headquarters, Aerospace Medical Division (AFSC) complies, consolidates, and reports for the Air Force all animal data in the scope of this part. These reports must meet DOD and legislative directive needs.

(c) Each laboratory director and local commander of organizations using animals in R.D.T. & E., clinical investigation, or instructional programs must:

(1) Set up a committee to go over all programs involving laboratory animals. It must make sure that DODI 3216.1 and the Animal Welfare Act standards issued by the Secretary of Agriculture are complied with. The committee must be made up of at least three members. It must include at least one research scientist not involved in the proposed program, and one senior veterinary officer.

(2) Give Aerospace Medical Division (AFSC)/RD, Brooks AFB, Tex. 78235, all information it needs on animals. This information is used to submit timely reports to meet Air Force, DOD, and other Federal agency requirements.

§ 931.5 Release of information.

The review, clearance, and release of information about R.D.T. & E., clinical investigations, and instructional programs that use animals must be in accordance with DODI 3216.1, AFR 190-12, and AFR 190-17.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-24741 Filed 8-31-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 953-8]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Section 107—Attainment Status Designations; California

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of public comments.

SUMMARY: This notice announces the availability of comments received by EPA Region IX concerning the attainment status designations for California set forth in the FEDERAL REGISTER of March 3, 1978 (43 FR 8962). The comments are available for public inspection at the locations indicated in the addresses section of this notice. The EPA is providing 30 days for the public to further comment upon the comments received to date. The EPA will publish revised attainment status designations, as appropriate, in the near future.

DATES: Comments may be submitted up to October 2, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, Technical Assistance Team (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the comments are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations: EPA Region IX, Contact Office, 300 North Los Angeles Street, Los Angeles, Calif. 90012. Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Charlotte Hopper, Technical Assistance Team, EPA Region IX, 415-556-2002.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) which directed each State to submit to the Administrator a list of the National Ambient Air Quality Standards attainment status designations of all areas within the State. The list appeared as a final rulemaking in the FEDERAL REGISTER of March 3, 1978 (43 FR 8962). In that rulemaking, EPA provided for a 60-day period to solicit comments on the attainment status designations. Due to the number of comments received and the interest in attainment status designations for California, EPA requested the State of California to respond to the comments and to submit supplemental information regarding the designations. To provide the public with an opportunity to consider this information, EPA Region IX is making available the comments and the information received from the State of California for public inspection, and will accept additional comments for 30 days (October 2, 1978). Relevant comments from the previous 60-day comment period as well as this 30-day additional comment period will be considered when EPA publishes revised attainment status designations, as appropriate, in the near future. Comments previously received need not be resubmitted.

All comments received will be available for inspection during normal business hours at the locations listed in this notice. The receipt of comments will be acknowledged, but substantive responses to individual comments will be provided only in the preamble to the final rulemaking.

AUTHORITY: Sections 107 and 301 of the Clean Air Act, as amended (42 U.S.C. 7407 and 7601).

Dated: August 17, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-24675 Filed 8-31-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 78-9; General Order No. 40]

PART 542—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION

AGENCY: Federal Maritime Commission.

ACTION: Modification of rules.

SUMMARY: Part 542 of the Commission's rules recently has been revised to conform to the requirements of the 1977 Clean Water Act amendments to the Federal Water Pollution Control Act (33 U.S.C. 1321). Part 542 establishes procedures whereby vessel operators may demonstrate the financial ability to meet their liability to the U.S. for the costs of removing oil and "hazardous substances" discharged into United States waters. Revised part 542 requires that applications for Certificates of Financial Responsibility (Water Pollution) be made to the Commission on form FMC-321, accompanied by evidence of financial responsibility and fees, by September 30, 1978. The Commission is hereby modifying revised part 542 for two purposes. First, the applicability of the rules to hazardous substances is stayed until further notice. Second, although evidence of financial responsibility still must be filed by all applicants no later than September 30, 1978, the filing deadline for applications and fees is extended to December 31, 1978, for applicants who currently hold valid certificates issued under previous part 542.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION:

HAZARDOUS SUBSTANCES

On August 11, 1978 (43 FR 35704), the Commission issued regulations (revised part 542) to implement the Clean Water Act of 1977.[1] Those regulations concern removal cost liability on the part of vessel operators who discharge harmful quantities of oil or hazardous substances into U.S. waters.

The designation of hazardous substances, the harmful quantities thereof, and related provisions were published by the Environmntal Protection Agency (EPA) on March 13, 1978 (43 FR 10474). However, on June 8, 1978, the U.S. District Court for the Western District of Louisiana, issued a preliminary injunction against certain of the EPA regulations. *Manufacturing Chemists Association* v. *Douglas M. Costle*, Civil Action No. 78-0578. Hearings on a permanent injunction were conducted on July 24, 1978.

In view of that pending court action, when the Commission issued revised part 542 it stated in footnote 2 under the supplementary information portion of the FEDERAL REGISTER notice that:

> The Commission will issue such further order concerning the hazardous substances provisions of part 542 as may be appropriate following release of the Court's decision.

On August 4, 1978, the Court issued its decision in Civil Action No. 78-0578 and held that major portions of the EPA's regulations are "invalid, void, unenforceable, and of no legal effect."[2] The validity of the hazardous substances provisions encompassed in the Commission's revised part 542 depends entirely on the validity of the EPA's regulations concerning hazardous substances. Therefore, the Commission will stay all aspects of the hazardous substances provisions contained in revised part 542 until further notice.

This action will not have any effect upon the validity of the regulations in revised part 542 with respect to oil, nor does this action relieve vessel operators from submitting evidence of financial responsibility by using the methods set forth in § 542.8 of the regulations.

Two of the effects which will result from this action are: (1) That underwriters and their assured vessel operators, even though they submit evidence of financial responsibility as set forth in section 542.8, do not thereby assume liability for removal costs in connection with hazardous substances; and (2) non-self-propelled barges which do not carry oil as cargo or fuel but which do carry hazardous substances as cargo or fuel are relieved from the certification requirements of revised part 542.

The Commission will lift this stay by appropriate order at such time as the legal impediments to the ERA's regulations under section 311 of the Act are removed. Commencing upon the effective date of the future Order which lifts this stay, all evidence of financial responsibility on file with the Commission shall automatically begin to cover liability for discharges of hazardous substances occurring on and after that effective date.

FILING DEADLINE

As a completely separate matter, the Commission will extend the filing

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[1] Pub. L. 95-217, 91 Stat. 1566. The Clean Water Act amends the Federal Water Pollution Control Act, 33 U.S.C. 1321. The latter statute, as amended through 1977, is hereinafter referred to as the "Act."

[2] The Court's ruling does not appear to invalidate the EPA's list of designated hazardous substances. However, the clear invalidation of related provisions, especially the "harmful quantities" designation, renders the list void for most intents and purposes. Thus, at least, vessel operators and underwriters still know what substances are "hazardous substances," even though the Court's ruling means that, for the time being, discharges of such substances do not result in removal cost liability under section 311 of the act.

deadline with respect to application form FMC-321 and fees (*but not with respect to evidence of financial responsibility*) for vessel operators who have valid certificates issued under previous part 542.

A vessel operator who does not have a valid certificate issued under previous part 542 and who wishes to use the navigable waters of the United States must submit application form FMC-321, evidence of financial responsibility and fees in accordance with revised part 542 as soon as possible before entering or using the navigable waters of the United States.

The first sentence of § 542.5 of the regulations ("Time to Apply") reads as follows: "A completed application, fees and evidence of financial responsibility shall be filed before September 30, 1978." [3] It is not necessary to require submission of application form FMC-321 and application and certification fees by September 30, 1978, in those cases where an operator has a valid certificate issued under previous part 542 and has submitted evidence of financial responsibility under revised part 542 by September 30, 1978. In those cases, therefore, the Commission will extend the application and fees deadline to December 31, 1978. Again, however, evidence of financial responsibility still must be submitted in accordance with revised part 542 by all applicants no later than September 30, 1978.

The reason for extending the filing deadline for those operators discussed above is that many non-English speaking vessels operators depend upon agents, located in the United States and elsewhere, to supply blank application forms, translations of regulations, instructions on proper completion of forms, methods of complying with key provisions of Commission regulations, etc. In many cases, therefore, the September 30, 1978 filing deadline may pass before such vessel operators have a chance to receive, complete and return their application forms to their agents or directly to the Commission. Rather than impose what might be an unnecessarily strict burden on thousands of vessel operators, the Commission is of the opinion that it can relax its application form and fees deadline and still accomplish the objectives of the act.

[3] It should be noted that section 58(j) of the Clean Water Act of 1977 provides that the required evidence of financial responsibility need not be effective until October 1, 1978. It is assumed, however, that because the increased and broadened removal cost liability with respect to oil became effective December 27, 1977, prudent vessel operators will wish to furnish evidence of financial responsibility as soon as possible. Insurance, surety bonds, guaranties and self-insurance, as set forth in § 542.8(b) of the regulations, are the acceptable methods of furnishing evidence of financial responsibility.

As implied by the foregoing, the deadline can be extended because the Commission will permit a valid Certificate of Financial Responsibility (Oil Pollution), issued under previous part 542, to be used on and after October 1, 1978 as interim evidence of compliance with revised part 542. This interim certificate procedure will be applicable to a particular operator until such time as a new certificate can be issued to that operator under revised part 542. Further, this interim certificate procedure will be permitted only in cases where vessel operators have filed proper application forms FMC-321 and fees by December 31, 1978, and have submitted acceptable evidence of financial responsibility by September 30, 1978. The Commission wishes to emphasize that no interim certificate will remain valid if the underlying evidence of financial responsibility, submitted under revised part 542, is terminated.

All Certificates of Financial Responsibility (Oil Pollution) issued to a vessel operator under previous part 542 will be automatically invalidated on October 1, 1978, unless that operator has submitted accepted evidence of financial responsibility under revised part 542 by September 30, 1978.

Because this order merely relaxes provisions of the original order served August 4, 1978, the Commission finds that good cause exists for making this order effective upon less than the 30-day notice ordinarily applicable under 5 U.S.C. 553(d).

Therefore, it is ordered, that, effective September 1, 1978, revised part 542 of Subchapter B of Chapter IV of Title 46 of the Code of Federal Regulations (General Order 40) is modified as set forth below:

1. All references to hazardous substances in revised part 542 and in the forms appended thereto shall be disregarded and considered to be of no legal force or effect until further Order of the Federal Maritime Commission.

2. The date of September 30, 1978, as it appears in the first sentence of § 542.5 of Title 46 of the Code of Federal Regulations is to be read as applying only to submission of evidence of financial responsibility and not to application forms and fees. The Commission shall not require adherence to that date, with respect to application forms and fees, in cases where vessel operators have valid certificates issued under previous part 542 and have submitted evidence of financial responsibility under revised part 542 by September 30, 1978. In those cases, the date for submission of application forms and fees shall be and is hereby extended to December 31, 1978.

By Order of the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24746 Filed 8-31-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Amdt. No. 1 to Service Order No. 1325]

Atchison, Topeka & Santa Fe Railway Company Authorized to Operate Unit-Grain Train Comprised of 60 Cars

DECIDED AUGUST 25, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (amendment No. 1 to service order No. 1325).

SUMMARY: There is a severe shortage of both covered hopper cars and locomotives on the Atchison, Topeka & Santa Fe Railroad (ATSF) for transporting shipments of grain and related commodities. Service order No. 1325 authorizes the ATSF to waive certain tariff requirements requiring the shipment of 75 carloads of grain in a single train and to apply in lieu thereof a minimum weight of 5,700 net tons per shipment in not to exceed 60 cars from ATSF origins in rate zone F and west to California destinations. The reduced train size will enable the ATSF to make a more equitable distribution of its covered hopper cars and to secure more efficient utilization of its locomotives. Service order No. 1325 is published in full in volume 43 of the FEDERAL REGISTER at page 19396. Amendment No. 1 extends the order until January 15, 1979.

DATES: Effective August 31, 1978. Expires January 15, 1979.

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: Upon further consideration of service order No. 1325 (43 FR 19396), and good cause appearing therefor:

It is ordered, service order No. 1325 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1325 The Atchison, Topeka & Santa Fe Railway Company authorized to operate unit-grain train comprised of 60 cars * * *

* * * * *

(e) Expiration date. The provisons of this order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1978.

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

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment 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 a copy 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 Robert S. Turkington not participating.

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

[FR Doc. 78-24749 Filed 8-31-78; 8:45 am]

[7035-01]

PART 1033—CAR SERVICE

[Amdt. No. 3 to Revised Service Order No. 1308]

Distribution of Covered Hopper Cars

DECIDED AUGUST 25, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (amendment No. 3 to revised service order No. 1308).

SUMMARY: The Union Pacific is unable to furnish individual shippers with lots of 25 to 50 jumbo covered hopper 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. Service order No. 1308 is published in full in volume 43 of the FEDERAL REGISTER at page 12693. Amendment No. 3 extends the order an additional 2 months.

DATES: Effective 11:59 p.m., August 31, 1978. Expires 11:59 p.m., October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Upon further consideration of Revised Service Order No. 1308 (43 FR 12693, 19049 and 28497), and good cause appearing therefor:

It is ordered, revised service order No. 1308 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1308 Distribution of covered hopper cars

* * * * *

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1978.

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

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment 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 a copy 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 Robert S. Turkington not participating.

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

[FR Doc. 78-24750 Filed 8-31-78; 8:45 am]

[7035-01]

PART 1033—CAR SERVICE

[Amdt. No. 2 to Service Order No. 1323]

Distribution of Freight Cars

DECIDED AUGUST 25, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (amendment No. 2 to service order No. 1323).

SUMMARY: There is a shortage of trilevel auto rack flatcars on the Burlington Northern (BN) and on the Union Pacific (UP) Railroads for the shipment of automobiles. Bilevel auto rack cars are available to these railroads but cannot be used because of tariff provisions requiring the use of trilevel cars. Service order No. 1323 authorizes the BN and the UP to substitute three bilevel cars for each two trilevel cars ordered by shippers for transporting automobiles. Service order No. 1323 is published in full in volume 43 of the FEDERAL REGISTER at page 18555. Amendment No. 1 extends this order for an additional 2 months.

DATES: Effective 11:59 p.m., August 31, 1978. Expires 11:59 p.m., October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

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

Upon further consideration of service order No. 1323 (43 FR 18555 and 29125), and good cause appearing therefor:

It is ordered, service order No. 1323 is amended by substituting the following paragraph (i) for paragraph (i) thereof:

§ 1033.1323 Distribution of freight cars.

* * * * *

(i) Expiration date. The provisions of this order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1978.

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

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment 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 a copy with the Director, Office of the Federal Register.

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

chael. Member Robert S. Turkington not participating.

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

[FR Doc. 78-24751 Filed 8-31-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER 1—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Alamosa National Wildlife Refuge, Colo., to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of cottontail rabbits and white- and black-tailed jackrabbits on Alamosa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978, through January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert L. Darnell, Refuge Manager, Alamosa National Wildlife Refuge, P.O. Box 1148, Alamosa, Colo. 81101, telephone 303-589-4021; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone 801-524-5630.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting for cottontail rabbits, white- and black-tailed jackrabbits is permitted on the Alamosa National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 3,946 acres are delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting of rabbits on the refuge will be permitted only during the Colorado waterfowl season—September 30, 1978, through October 13, 1978, inclusive and November 11, 1978, through January 18, 1979 inclusive.

(2) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of rabbits.

(4) Hunting with rifles and handguns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 25, 1978.

ROBERT L. DARNELL,
Refuge Manager,
Alamosa National
Wildlife Refuge, Alamosa, Colo.

[FR Doc. 78-24696 Filed 8-31-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Mingo National Wildlife Refuge, Mo., to Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Mingo National Wildlife Refuge, Mo., to the list of refuge areas open to the hunting of migratory waterfowl. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for the refuge. Hunting, subject to annual special regulations, will provide additional public recreational opportunities.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald G. Young, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4307.

SUPPLEMENTARY INFORMATION: Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, P.O. Box V, Puxico, Mo., is the primary author of this proposal. On July 17, 1978, there was published (43 FR 30585) a notice of proposed rulemaking adding Mingo National Wildlife Refuge, Mo., to the list of refuge areas which are open for hunting of migratory game birds.

The hunt will be administered by the Missouri Department of Conservation as directed under a cooperative agreement between the State and the U.S. Fish and Wildlife Service.

As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulations. The public was provided a 30-day comment period and was advised that an environmental assessment had been prepared on the proposed rulemaking. There were no comments received on the proposed rulemaking.

Pursuant to the requirements of § 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), and environmental assessment has been prepared on this proposal, which is available for public inspection and copying at Room 2024, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail, addressing the Director at the above address. On the basis of this assessment, the Director has determinated that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, 50 CFR 32 is amended by the addition of Mingo National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

MISSOURI

Mingo National Wildlife Refuge.

Dated: August 29, 1978.

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

[FR Doc. 78-24699 Filed 8-31-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Big Stone National Wildlife Refuge, Minn., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Big Stone National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978, through November 26, 1978, and December 2, 1978, through December 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 25 Northwest Second Street, Ortonville, Minn. 56278 (James W. Heinecke), phone 612-839-3700.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Big game hunting is permitted on the Big Stone National Wildlife Refuge, Minn., only on the area designated by signs as being open to hunting. This area comprising approximately 7,500 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Big game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Legal species include white-tailed deer only.

2. Public use of the hunting area shall be during daylight hours only.

3. Construction or use of permanent blinds, platforms, or scaffolds is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JAMES W. HEINECKE,
Refuge Manager.

JULY 26, 1978.

[FR Doc. 78-24681 Filed 8-31-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Big Stone National Wildlife Refuge, Minnesota, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Big Stone National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 16, 1978, through November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, 25 NW. Second Street, Ortonville, Minn. 56278 (James W. Heinecke), phone 612-839-3700.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game hunting is permitted on the Big Stone National Wildlife Refuge, Minnesota, only on the area designated by signs as being open to hunting. This area comprising approximately 7,500 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. All seasons close at sunset, November 30, 1978.

2. Public use of the hunting area shall be during daylight hours only.

3. Legal species include Hungarian partridge, cottontail rabbit, gray and fox squirrel, and ring-necked pheasant only.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JAMES W. HEINECKE,
Refuge Manager.

JULY 26, 1978.

[FR Doc. 78-24682 Filed 8-31-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Swan Lake National Wildlife Refuge, Missouri, to Public Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Swan Lake National Wildlife Refuge is compatible with objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: october 24, 1978, through January 1, 1979, or until the harvest quota of 30,000 Canada geese is reached whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

Alfred O. Manke, P.O. Box 68, Sumner, Mo. 64681, telephone 816-856-3323.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting for geese only is permitted only on designated areas comprising 2,500 acres within Swan Lake National Wildlife Refuge, Missouri, Hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Each hunter must obtain a State permit prior to hunting, hunt only from an impartially assigned blind, and fire no more than ten (10) shells.

2. Daily bag from October 24 through November 26 may not include more than one (1) Canada goose. From November 27 until season closure the daily bag may not include more than two (2) Canada geese.

3. Use or possession of 12-gauge shells loaded with any material other than steel shot is prohibited. This steel shot provision does not apply to any other gauges.

4. Authorized officials may retrieve legally shot geese falling inside the refuge boundary for the hunters who shot them.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 24, 1978.

ALFRED O. MANKE,
Refuge Manager.

[FR Doc. 78-24683 Filed 8-31-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Alamosa National Wildlife Refuge, Colo., to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe on Alamosa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978, through January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert L. Darnell, Refuge Manager, Alamosa National Wildlife Refuge, P.O. Box 1148, Alamosa, Colo. 81101, telephone 303-589-4021; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, telephone 801-524-5630.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on Alamosa National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 3,946 acres is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe subject to the following special conditions:

(1) The hunting of mourning doves and Wilson's snipe on the refuge will be limited to those dates open to the hunting of waterfowl, September 30 through October 13, 1978, inclusive and November 11, 1978, through January 18, 1979, inclusive.

(2) Admittance—Entrance to the area open to hunting, and the parking of vehicles will be restricted to designated hunter parking areas.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(4) Boats—The use of boats is prohibited. One- or two-man liferafts that can be carried by one individual from the parking areas to the hunting area may be used to retrieve dead or wounded birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 25, 1978.

ROBERT L. DARNELL,
Refuge Manager, Alamosa National Wildlife Refuge, Alamosa, Colo.

[FR Doc. 78-24684 Filed 8-31-78; 8:45 am]

[3510-22]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 285—ATLANTIC TUNA FISHERIES

Bluefin Tuna Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Interim final rulemaking.

SUMMARY: This regulation allows the use of properly certified "buy boats" to purchase Atlantic tuna covered by the International Convention for the Conservation of Atlantic Tunas (tuna) from fishermen at sea. All tuna purchased in this manner must be landed at a port under the jurisdiction of the United States. Recordkeeping and reporting requirements similar to those applicable to vessels fishing for Atlantic tuna are also prescribed.

EFFECTIVE DATE: This regulation will become effective at 0800 e.d.t., August 29, 1978. Written comments may be submitted until September 29, 1978. Comments should be sent to Mr. William G. Gordon, Regional Director, Northeast Region, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon at the address shown above.

SUPPLEMENTARY INFORMATION: On March 14, 1978, proposed regulations were published in the FEDERAL REGISTER (43 FR 10592) to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas. Final regulations were published in the FEDERAL REGISTER on June 21, 1978 (43 FR 26581).

Five public hearings were held in March 1978 at various locations in Rhode Island, Massachusetts, Maine, New Jersey, and Virginia. Written comments were solicited on all aspects of the proposed regulations. Comments were further sought on the advisability of a provision respecting "buy boats." Though views on this subject were received, no provision concerning "buy boats" was included in the final regulations.

The preamble to the final 1978 regulations states that a proposed regulation concerning "buy boats" would be published and public hearings thereon would be scheduled. However, because of the volume of comments regarding this subject that have been received from interests involved in the Atlantic tuna fishery and the generally favorable position represented by those comments, the Assistant Administrator for Fisheries has determined that further public hearings on a provision for "buy boats" are unnecessary and contrary to the public interest because the season is nearly over.

Because of the short duration of the remainder of the tuna fishing season, the Assistant Administrator has found that delaying the effective date of this regulation is unnecessary, impractical, and contrary to the public interest.

This regulation allows any person to apply for a "buy boat" certificate if

the vessel to be used is properly documented or registered. However, any vessel so certified may not be used to participate directly in the tuna fisheries. There are a number of other requirements which must be met also.

Notice must be provided to the National Marine Fisheries Service (NMFS) prior to the landing and offloading of tuna. In addition, a daily log containing the tag number, the name of the seller, location of the catch, date and time of purchase, the fork length, and whole or dressed weight for each tuna purchased must be maintained and forwarded to NMFS on a weekly basis.

In order to insure that the institution of "buy boats" in the Atlantic tuna fishery will not adversely impact the orderly fishery for the regulated species of tuna, it is necessary to monitor the operations of these vessels as closely as possible. Consequently, the issuance of a certificate to any owner or master is conditioned upon an agreement to allow an agent to NMFS to accompany the vessel on any trip(s) to observe the operations. The Regional Director will provide adequate notice to the owner or master of a "buy boat" of the placement of an agent on board his vessel. Any expenses directly related to the placement of an agent on board such vessel will be borne by the Regional Director. At the end of the 1978 fishing season, the NMFS will reevaluate this buy boat interim regulation in light of experience gained during the season. If it is determined that observers are unnecessary to assure that the use of "buy boats" does not jeopardize the conservation of the species, prevent effective enforcement of the regulations, or create an unfair economic advantage for one segment of the fishery, the observer requirement may be eliminated.

NOTE.—NOAA has determined that this document does not contain a major Federal action which requires the preparation of an environmental impact statement pursuant to National Environmental Policy Act, 42 U.S.C. § 4332(2)(C), nor a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Signed and dated at Washington, D.C., this 28th day of August 1978.

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

50 CFR 285 is amended as follows:

§ 285.1 [Amended]

1. Section 285.1—Definition is amended by inserting the following definition between the definitions for "Bigeye" and "Cargo vessel":

"Buy boat" means any vessel used by a dealer in receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for such tuna.

§ 285.17 [Amended]

2. Section 285.17—General restrictions is amended by adding a new paragraph (g) which reads as follows:

(g) It shall be unlawful for any fishing vessel or buy boat to fish for or receive Atlantic bluefin tuna except as provided in this part.

§ 285.18 [Amended]

3. Section 285.18—Reporting requirements is amended by revising § 285.18(f) and adding a new paragraph (i) to read as follows:

* * * * *

(f) It shall be unlawful for the master or owner of any purse seine vessel or buy boat certified under § 285.20 to offload any Atlantic bluefin tuna taken pursuant to this subpart without first transporting such tuna to any port under the jurisdiction of the United States, and arranging to have the vessel inspected by an agent of the National Marine Fisheries Service. Arrangements for such inspection shall be made at least 12 hours prior to offloading any purse seine vessel and 6 hours prior to offloading any buy boat, by calling 617-281-3600, extension 252, between the hours of 8 a.m. and 4:43 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling 617-992-7711. In making such arrangements, the owner or master of any buy boat certified under § 285.20 or designated representative, shall provide his name, buy boat certificate number, number of tuna received, and the anticipated location and time of landing at port.

* * * * *

(i) It shall be unlawful for the owner or master of a buy boat certified under § 285.20 to fail to maintain, on forms prescribed by the regional director, an accurate daily log of every Atlantic bluefin tuna received or transported. For each such tuna the log shall include the metal tag identification number, the location where caught, the dates and precise time of day when received, the fork length, whole or dressed weight, and the name of the person and fishing vessel from which received. It shall be unlawful for an owner or master of a buy boat certified under § 285.20 to fail to forward such daily logs to the Regional Director at the end of each week.

§ 285.20 [Amended]

4. Section 285.20—Certification is amended by redesignating paragraphs (b) through (f) as paragraphs (c) through (g), respectively and adding a new paragraph (b) which reads as follows:

(b) The owner or master of any buy boat must obtain a buy boat certificate under this section prior to receiving Atlantic bluefin tuna. No buy boat certificate may be issued unless the vessel is properly documented under the laws of the United States, or registered under State law, and the owner or master agrees to allow an agent authorized by the Regional Director to accompany the vessel on any trip to observe operations. The Regional Director shall provide reasonable notice to the owner or master of any buy boat that an agent will be placed on board the vessel in accordance with this section. The Regional Director shall reimburse the holder of any buy boat certificate for any additional expenses directly related to the placement of such observer which the Regional Director determines to be reasonable. Any fishing vessel which holds a certificate under paragraph (a) of this section may not be issued a buy boat certificate.

[FR Doc. 78-24697 Filed 8-31-78; 8:45 am]

[3510-22]

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

PART 651—ATLANTIC GROUNDFISH REGULATIONS

Emergency Regulations Repromulgated

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency regulations.

SUMMARY: This rule extends the emergency regulations for Atlantic groundfish (cod, haddock, and yellowtail flounder) for an additional 45 days. The emergency situation described in the initial FEDERAL REGISTER publication (43 FR 31015) on July 19, 1978, continues to exist.

EFFECTIVE DATE: These emergency regulations become effective on August 30, 1978, and will remain in effect until October 14, 1978, unless sooner withdrawn or replaced.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On July 19, 1978, the Assistant Admin-

istrator for Fisheries, National Oceanic and Atmospheric Administration, acting under appropriate delegation of authority, published emergency regulations in the FEDERAL REGISTER (43 FR 31015) to implement amendments to the fishery management plan (FMP) for Atlantic groundfish which had been prepared by the New England Fishery Management Council. It was determined at that time that the Secretary, under subsection 305(e), may promulgate emergency regulations when a determination is made that an emergency involving "fishery resources" exists. The Secretary finds that the influx of vessels and gear into the cod and haddock fisheries continues to constitute an emergency because it is a seriously disrupting factor in fishing for those stocks.

Therefore the current regulations must be continued for an additional 45-day period as authorized by section 305(e)(2) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended, unless sooner amended or terminated by appropriate action and public notice.

Signed this 29th day of August 1978.

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

[FR Doc. 78-24753 Filed 8-31-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-10]

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

[7 CFR Part 6]

SECTION 22 IMPORT QUOTAS

Proposed Revision of Regulations

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: In accordance with Presidential proclamation, 19 of the 28 individual dairy and milk chocolate crumb quotas established under section 22 are administered using a licensing system developed by the Department of Agriculture and promulgated as import regulation I. This rule proposes a revision of this regulation in order to deal with certain enforcement and administrative problems which have appeared since the last revision. It is intended to result in (1) more fair and equitable distribution of quota shares among eligible licensees, (2) more complete use of the quotas as established by Presidential proclamation, and (3) greater ability to prevent abuse of the licensing system.

DATE: Comments must be received on or before October 2, 1978.

ADDRESS: Comments should be addressed to the Director, Dairy, Livestock and Poultry Division, Commodity Programs, Foreign Agricultural Service, Room 6621, South Agricultural Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Bryant H. Wadsworth, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6621, South Agricultural Building, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5270.

SUPPLEMENTARY INFORMATION: The proposed revision does not effect the quantity of imports as specified by Presidential proclamation and listed in part 3 of the appendix to the Tariff Schedules of the United States Annotated (TSUS).

Discussion of Major Proposed Changes

DEFINITION OF AFFILIATE (§ 6.21(a))

The current regulation denies nonhistorical license eligibility for a particular article to persons or firms which are affiliated with other persons or firms already holding licenses for such article. However, it contains no definition for the term "affiliate." This proposed revision defines affiliate as any legal entity which owns, or is controlled by, another person or legal entity, etc. The purpose of the definition is to clarify provisions of the regulation and to make it possible for the Department of Agriculture to more precisely determine the eligibility of the applicants for nonhistorical license.

NONHISTORICAL ELIGIBILITY (§ 6.25(b))

The proposed revision clarifies the criteria a person must meet to qualify for nonhistorical license eligibility and extends the authority for issuing nonhistorical licenses to all licensed quotas, not just the cheese quotas and the regular milk chocolate crumb quota, as is currently the case. In all cases, the applicant for a nonhistorical license will be required to certify and show evidence that he or she is not affiliated with any other person eligible for a license for the same quota item and submit a list of the owner(s) of the applicant. In addition to certification of nonaffiliation, applicants for a given cheese quota must also show proof of importation of at least two commercial sized shipments totaling at least 10,000 pounds of cheese or cheese product during the year preceding that for which he or she desires a license.

The intent of these changes is to: (1) Give the Department of Agriculture authority to allocate to eligible nonhistorical applicants certain noncheese quotas (such as 950.11) for which there is at present no person with historical eligibility, (2) reduce the possibility of one firm (licensee) establishing or acquiring new firms in order to acquire additional nonhistorical quota shares, and (3) more strictly limit license eligibility to those firms or persons who are interested in legitimately trading in dairy products and/or milk chocolate crumb.

CONTINUATION OF LICENSE ELIGIBILITY (§ 6.25(c))

Historical license eligibility would continue from year to year, under the proposed revision, provided there has been proper utilization of such licenses and the licensee certifies annually that he or she has been and will continue to be the sole user of his or her historical license(s). Annual renewal of nonhistorical license eligibility would be required. The current regulation does not require this. These changes are intended to provide the Department of Agriculture with current information with respect to affiliation and the conduct of the business of importing dairy product and/or milk chocolate crumb by those desiring import licenses.

ALLOCATION OF ANNUAL QUOTA (§ 6.26)

In reverse to procedures under the current regulation, the proposed revision will require the allocation of historical licenses first, with remaining portions of each quota then being allocated to nonhistorical licensees. Historical quota shares will be fixed at amounts calculated on the basis of each licensee's quota base so that each year these shares will be the same (except for any temporary reductions resulting from less than full use). This proposed method is intended to (1) facilitate the allocation of nonhistorical licenses for quotas which have gone unused in past years due to lack of eligible historical licensees, and (2) provide the possibility for the nonhistorical portion of each quota to grow over time vis-a-vis its historical counterpart. Relative growth in the nonhistorical portion of a quota would occur when a historical license is canceled for nonuse or when a historical licensee goes out of business or otherwise loses his or her eligibility.

MINIMUM QUANTITIES FOR NONHISTORICAL QUOTA SHARES (§ 6.26(B))

To accomodate the more modern methods of transportation and handling that have developed since the current regulation became effective, the proposed revision provides for significant increases in the minimum nonhistorical quota share for each item. (The current minimum is 2,500 pounds for each cheese quota.) Maximum limits would be removed to allow for more full allocation of certain

quotas which may otherwise go unused. No additional quota shares would be allocated for a given quota item until after the quota shares of those who held nonhistorical licenses for that item in 1978 and who qualify for eligibility under the proposed revision reached the minimum size.

REALLOCATION OF QUOTA SHARES (§ 6.26(F))

The proposed revision would give the Department of Agriculture authority to reallocate to other interested licensees quota shares which a licensee confirms will not be used during a quota year. This provision is intended to facilitate (1) fairness and equity in allocation and (2) more complete use of the quotas.

ALLOCATION OF NEWLY ESTABLISHED QUOTAS (§ 6.26(G))

The proposed revision provides that no more than 50 percent of a newly established quota or the increased portions of already established quotas may be allocated to eligible historical licensees. Currently about 10 percent of each cheese quota is set aside for nonhistorical licensees. The proposed change is intended to give new firms greater opportunity to participate in the import market.

SUSPENSION OR REVOCATION OF ELIGIBILITY (§ 6.29)

Under the proposed revision, when evidence acquired clearly reveals that a violation has occurred, the Licensing Authority may revoke license eligibility. Such action, however, could be appealed to the Administrator of the Foreign Agricultural Service, who would provide the opportunity for a hearing.

TIME PERIOD FOR PUBLIC COMMENT

It is intended that the proposed revision be made effective for the 1979 quota year. Several months will be needed to make application for and issue licenses in accordance with the revised regulation. In view of this, it has been determined that it is impossible to allow 60 days for the public to comment on the amendment. Accordingly, there will be a 30-day comment period. It is proposed that the Licensing Regulations of the Subpart, Section 22 Import Quotas, of Part 6, Subtitle A of Title 7, be revised to read as follows:

Subpart—Section 22 Import Quotas

Sec.

6.20 Determination.
6.21 Definitions.
6.22 Prohibitions and restrictions on imports.
6.23 Exceptions.
6.24 Application for license.
6.25 Elibility.
6.26 Allocation of annual quota and issuance of licenses.
6.27 Use of licenses.
6.28 Records and inspection.
6.29 Suspension or revocation of eligibility.
6.30 [Reserved]
6.31 Adjustment of countries of origin.
6.32 Supercedure of Import Regulation 1, Revision 5.

Subpart—Section 22 Import Quotas

§ 6.20 Determination.

Part 3 of the Appendix to the Tariff Schedules of the United States, which contains the quantitative limitations on certain articles imported into the United States proclaimed by the President pursuant to Section 22 of the Agricultural Adjustment Act, as amended, (7 U.S.C. 624) provides that articles which are listed in appendix 1 to this regulation may be entered only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture and only in accordance with the terms of such license. It is further provided that such licenses shall be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in (a) the equitable distribution of the respective quotas for such articles among importers or users and (b) the allocation of shares of the respective quotas for such articles among supplying countries based upon the proportion supplied by such countries during previous representative periods, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned and that no licenses will be issued which will permit any of the cheeses, substitutes for cheese, or milk chocolate crumb to be entered during the first 6 months of a quota year in excess of one-half of the annual import quotas specified for such articles. It is hereby determined that the regulation will, to the fullest extent practicable, accomplish this result.

§ 6.21 Definitions.

Except where the context otherwise requires, the following terms have the meanings set forth in this section:

(a) "Affiliate" means any person or legal entity which owns, in total or in part, directly or indirectly, or controls another person, persons or legal entity. For a corporation, ownership of all or a portion of the voting stock will be the controlling criterion. If any interest is owned or controlled in a corporation, partnership, estate, or trust by or for a person, a corporation, a partnership, or a beneficiary of an estate or a trust, the interest will be considered as owned or controlled by the person, partnership, corporation, estate, or trust. If any person or legal entity has an option to acquire stock, such stock will be considered as controlled by such person. For purposes of this regulation, an option to acquire such an option, and each one of a series of such options, will be considered as an option to acquire such stock.

(b) "Annual quota" means the quantity of an article which may be imported in a quota year as provided in appendix 1.

(c) "Appendix 1" means appendix 1 to this regulation.

Definitions of articles in this appendix are the same as those provided in the Tariff Schedules of the United States.

(d) "Article" means an item referred to in appendix 1.

(e) "Authorized agent" means an agent as used in 19 CFR 141.31(a) for whom the licensee has filed with the District Director of Customs a limited power of attorney using customs form 5291 authorizing such agent to act for, but only in, the licensee's name.

(f) "Basic annual allocation" refers to historical quota shares only and means the quota share of a licensee for an article before any reduction as authorized under § 6.26(c) has been effected. It will be calculated on the basis of the licensee's average annual imports during the appropriate representative base period shown in appendix 1.

(g) "Country of origin" and/or "Supplying country" mean the country in which the article subject to the regulation was produced or manufactured as defined under 19 CFR 134.1(b).

(h) "Date of entry" and/or "Date of importation" mean the date of deposit and acceptance by the Collector of Customs of the properly executed documents for entry, or withdrawal from warehouse, for consumption, including deposit of estimated duties.

(i) "Department" mean the U.S. Department of Agriculture.

(j) "Eligible applicant" means a person applying for a license to import an article who has established, to the satisfaction of the licensing authority, eligibility to import such commodity, in accordance with section 6.25.

(k) "Entire dairy products business" and/or "Entire milk chocolate crumb business" means the total assets and operations of the foreign and domestic aspects of a business pertaining to articles subject to the provisions of this regulation.

(l) "Entrepreneurial use" means the processing or sale of the licensed article by the licensee who is managing and assuming the risk of such business.

(m) "Import" or "enter" means to make entry, or withdrawal from warehouse, for consumption by deposit

with, and acceptance by, the Collector of Customs of the properly executed entry documents, including invoices, bills of lading, and payment of estimated duties.

(n) "Increased portion of an already established quota" means the amount by which the quota set forth in appendix 1 for and article is increased by Presidential Proclamation after (effective date).

(o) "Licensee" means any person to whom an import license has been issued under the regulation.

(p) "Licensing Authority" means the Director, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture and any other officer or employee of the Department designated in writing as Acting Director in the absence of the Director.

(q) "Newly established quota" is a quota established pursuant to Section 22 by Presidential Proclamation after (effective date).

(r) "Other countries" refers to those countries as shown in appendix 1 as sharing a common quota and for the purposes of the regulation is deemed as one country of origin.

(s) "Person" includes any individual, firm, corporation, partnership, association, or other legal entity. It also includes any government (other than the Government of the United States and any agency thereof).

(t) "Pricebreak" means the price determined in accordance with 3(a)(v) of Part 3 of the Appendix to the Tariff Schedules of the United States.

(u) "Quota share" means that part of the annual quota of an article listed in appendix 1 for which a person is eligible.

(v) "Quota year" means the 12-month period beginning on January 1, of any given year.

(w) "Regulation" means the provisions contained in the Licensing Regulation of this subpart.

(x) "United States" means the Customs Territory of the United States, which is limited to the United States, District of Columbia, and Puerto Rico.

§ 6.22 Prohibitions and restrictions on imports.

(a) No person may import or cause to be imported any article listed in appendix 1, except as provided in § 6.23 or as authorized by an import license issued pursuant to the regulation.

(b) A person to whom an import license has been issued hereunder is not relieved from compliance with any requirement of the regulation or any other applicable laws and regulations.

§ 6.23 Exceptions.

Licenses are not required for the entry of:

(a) Articles imported by or for the account of any agency of the U.S. Government.

(b) Articles with an aggregate value of not over $25 in any shipment, if imported as samples for taking orders, for the personal use of the importer, or for research.

(c) Articles imported for exhibition, display or sampling at a trade fair, or for research, if written approval of the Licensing Authority is obtained.

§ 6.24 Application for license.

Applications to the Licensing Authority for the issuance of licenses to import articles must be made in writing, addressed to the Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Each letter of application must state the article (including type, in the case of cheese), the country of origin from which importation is to be made, the port or ports of entry at which importations are to be made, and, in the case of nonhistorical licenses or licenses for portions allocated under paragraph (f) of § 6.26, the size of each quota share desired. Hand-carried applications will not be accepted by the Licensing Authority.

§ 6.25 Eligibility.

(a) *Historical eligibility.* Historical eligibility for licenses to import a quota share of articles subject to quotas in effect as of (date of publication of regulation in FEDERAL REGISTER) have been determined. Historical eligibility for any new quotas which may be imposed will be established upon the basis of evidence submitted, satisfactory to the Licensing Authority, of importations during the base period of articles subject to such quotas, together with evidence that such person is actively operating and individual business of importing such article for his or her own entrepreneurial use.

(b) *Nonhistorical eligibility.* (1) Any person, who is not eligible under paragraph (a) of this section to receive a license to import a particular article in appendix 1, who meets the requirements of this paragraph, will be eligible to obtain a license to import a quota share of such article, except that a person may establish such eligibility for only one of the articles listed under group I of the appendix.

(2) Eligibility for articles under groups I and VII of appendix 1 will be established upon submission of: (i) a verified certification sworn to by the applicant under penalty of perjury stating that such person is not a part of or an affiliate of the business of any other person eligible for an import license for the article for which application is made and is not an officer, member, partner, associate, or employee of such business, and (ii) a list of the owner(s) of such person or firm showing the percent ownership held by each owner.

(3) Eligibility for articles under groups II through VI will be established upon submission of:

(i) A notarized certification sworn to by the applicant under penalty of perjury stating that: (A) such person intends to be regularly engaged, during the period covered by the license(s) for which application is made, in the business of importing such articles and for this purpose will maintain a bona fide business office within the Customs Territory of the United States and have a person, principal or resident agent upon whom service of judicial process may be made; (B) such person intends to use any license obtained hereunder in actual commerce and, for this purpose, the Licensing Authority may require the licensee to submit proof demonstrating the use to which licenses have been made; (C) such person has made at least two commercial importations of cheese or cheese products totaling at least 10,000 pounds, as owner of the product and importer of record, during the quota year preceding that for which application for license is being made, and for this purpose, the Licensing Authority may require such person to submit proof of payment in said person's own name for the said cheese or cheese products and corresponding duties; (D) such person is not a part of or an affiliate of the business of any other person eligible for an import license for the article(s) for which application for license is made, and is not an officer, member, partner, associate, or employee of such business;

(ii) A list of the owner(s) of the applying firm (if other than an individual) showing the percent of ownership held by each owner.

(4) Evidence and certification required to establish the nonhistorical eligibility of a person making application to receive a quota share for a given quota year will not be accepted by the Licensing Authority before August 1 or later than November 1 preceding the quota year for which the license to import is requested, except as may otherwise be provided by notice published in the FEDERAL REGISTER.

(c) *Continuation of eligibility.* (1) The historical eligibility of a person to receive a license for a quota share established under paragraph (a) of this section will be continued for subsequent quota years unless suspended or revoked pursuant to § 6.29: *Provided,* That, effective with licenses issued for the 1979 quota year, no such licenses will be issued to any licensee unless such licensee requests in writing the

issuance of such license(s) and no later than 60 days prior to the beginning of each subsequent quota year submits to the Licensing Authority a notarized certification sworn to by the licensee under the penalty of perjury stating that such licensee has been the sole user of said historical license(s), that such licensee has not permitted said historical license(s) to be used by or for any other person, that such licensee has not imported under license(s) issued to any other person(s), and that such licensee will import for his or her own entrepreneurial use the articles for which he or she will be issued license(s) during the next year.

(2) The nonhistorical eligibility of a person established under paragraph (b) of this section to import a quota share of an article listed in appendix 1 for a particular quota year will expire at the end of such quota year. Eligibility for each ensuing year, if desired, must be established as outlined in paragraph (b) of this section.

(3) Any licensee who fails to import at least 85 percent of a quota share of any article listed in appendix 1 granted under paragraph (b) of this section for a given year will be ineligible to receive a license for such article in the next quota year unless the licensee establishes that he or she was unable to import such article due to reasons acceptable to the Licensing Authority.

(d) *Transfer of eligibility.* Upon receipt of documentary evidence acceptable to the Licensing Authority that the entire dairy products business and/or milk chocolate crumb business of a person who has established historical eligibility for a quota share has been sold or otherwise transferred (a complete transfer of total assets, binding on all parties-in-interest) to a person who is assuming the operation of the entire business involving dairy products and/or milk chocolate crumb, the Licensing Authority will recognize the successor-in-interest as having eligibility for such quota share: *Provided, however,* That, in the event of the merger of the businesses of two or more persons, the successor-in-interest, with the historical eligibility of all persons or firms for which said person is successor-in-interest, and said person's affiliates will be considered only as one person for the purpose of determining eligibility for quota shares.

§ 6.26 Allocation of annual quota and issuance of licenses.

(a) *Historical licenses.* Subject to paragraph (c) of this section, an eligible historical applicant will receive his or her basic annual allocation. The quantity of an article imported during the base period by a person who is not, as of the beginning of a quota year, actively operating an independent business of importing such articles will, for the purposes of determining the quota shares of eligible applicants, be deemed to have been imported by said person's successor-in-interest, if any, to whom such business has been sold or otherwise transferred—which transfer has been recognized by the Licensing Authority—and who is actively operating such business as of the beginning of the quota year.

(b) *Nonhistorical licenses.* (1) The annual quotas, less the quantities allocated to historical licensees, will, to the extent practicable, be allocated among eligible nonhistorical applicants. Subject to paragraph (b)(2)(i) of this section, the minimum annual nonhistorical quota share for each article will be as follows:

Article	TSUS item No.	Minimum quantity (pounds)
Dried buttermilk and whey	950.01	2,500
Dried skimmed milk	950.02	5,000
Dried whole milk	950.03	1,000
Dried cream	950.04	250
Butter	950.05	1,000
Blue-mold cheese	950.07	5,000
Cheddar cheese	950.08A	10,000
American-type cheese	950.08B	10,000
Natural Edam and Gouda cheese	950.09A	7,000
Processed Edam and Gouda cheese	950.09B	5,000
Italian-type cow's milk cheese in original loaves	950.10	5,000
Italian-type cow's milk cheese in other than original loaves	950.10A	5,000
Swiss or Emmenthaler cheese with eye formation	950.10B	10,000
Swiss or Emmenthaler cheese other than with eye formation, "Gruyere-Process"	950.10C	10,000
"Other" cheese, NSPF	950.10D	20,000
"Other" cheese, "low fat"	950.10E	10,000
Malted milk	950.11	250
Milk chocolate crumb	950.15	50,000
Milk chocolate crumb, "low fat"	950.16	50,000

(2) A nonhistorical quota share will be determined on the following basis:

(i) If, after applications for nonhistorical eligibility for the 1979 quota year have been evaluated, the Licensing Authority determines that more applicants for an article, under groups II through VI of appendix 1, who held a nonhistorical license for such article in 1978, are eligible for a license for such article in 1979 than could be issued quota shares at or above the minimum quantity set forth above, the Licensing Authority will issue quota shares at below the minimum quantity each year until, by attrition, or otherwise, the number of such eligible applicants is reduced sufficiently to allow issuance of quota shares at or above the minimum quantity set forth above.

(ii) Subject to paragraph (b)(2)(i) of this section, quota shares for an article may not be smaller than the applicable minimum quantity set forth above unless requested in writing by the applicant, but in no case shall the quota share be greater than the quantity requested by the applicant.

(iii) Subject to § 6.31 of this regulation, a quota share may be imported from only one country of origin.

(iv) The amount left after allocation to historical licensees as set forth in paragraph (a) of this section will, to the extent practicable, be allocated in equal shares among eligible nonhistorical applicants as follows:

(A) A person with his or her affiliate(s) will be considered only as one person for the purpose of allocation of nonhistorical quota shares. No more than one quota share of an article in appendix 1 will be allocated to each such eligible person.

(B) If the number of eligible applicants for an article under group I or VII of appendix 1 times the minimum quota share for such article set forth above exceeds the amount available for allocation, quota will be assigned to applicants based on date and time of postmark of application received pursuant to § 6.24 of the regulation.

(C) Subject to paragraph (b)(2)(i) of this section, if the number of eligible applicants for an article times the minimum quota share for such article set forth above is less than the amount available for allocation, quota shares will be calculated by dividing the amount available by the number of eligible applicants.

(c) *Temporary reduction of historical quota share.* Subject to provisions of paragraph (f) of this section, the historical quota share for any article in appendix 1, which is not imported by its holder at the rate of 85 percent or more during each of the preceding 2 quota years will be reduced in the following quota year. Such reduced historical quota share will be equal to one-half of its basic annual allocation or the amount actually imported against it in the previous year, whichever is greater: *Provided,* (1) That, once such reduced quota share has been established, the quota share of the licensee in each of the following quota years will be no less than 110 percent of his imports during the quota year immediately preceding; (2) that once a reduced quota share has again reached or exceeded 85 percent of the basic annual allocation, the quota share will be restored to 100 percent of the basic annual allocation.

(d) *Licenses.*—(1) *Annual basis.* Licenses to import quota shares of articles, other than cheese and milk chocolate crumb, may be issued on an annual basis.

(2) *Semiannual basis.* Quota shares of cheese and milk chocolate crumb will be divided into two parts, as nearly equal as practicable, each to be covered by a license valid on the first

day of the first and seventh months of each calendar year: *Provided,* That no licenses be issued which would permit the importation of any such article during the first 6 months of the quota year in excess of one-half the annual quota therefor.

(e) *Advance against next period license.* Notwithstanding any other provision herein, any person eligible for a license to import a quota share of any article may be given an advance against his or her next period license in order to permit importation of an additional quantity of such article, upon a determination by the Licensing Authority that not to grant the advance against said person's next period license would result in an undue hardship to such person: *Provided,* That no advance may be given which would permit the total quantity of such article to be imported in excess of the quota therefor, as set forth in appendix 1.

(f) *Reallocation of quota shares.* (1) Notwithstanding any other provisions of this regulation, to the extent that, prior to the last 4 months of a quota year, it appears that all or part of a quota share of a particular licensee will not be entered during that quota year, the Licensing Authority may require such licensee to submit in writing within a specified 21-day period a statement as to the amount of the unused portion of such quota share which will be used during the remainder of such quota year. If the licensee fails to submit such statement within the specified period, the Licensing Authority may conclude that the unused portion of the quota share in question will not be used during the remainder of said quota year. On the basis of said statement, or if no statement is submitted, the Licensing Authority may reallocate all or part of the unused portion of such quota share.

(2) To the extent that the quota shares for such licensees for articles are reduced, the quota shares for other licensees will be increased for such year as follows:

(i) Reallocation will be made among applying historical licensees for such articles on the basis of the amounts requested by the applicants, unless the aggregate of the amounts requested exceeds the portion of the quota available for reallocation, in which case reallocation will be based on the respective amounts of such articles imported by such licensees during the previous 2 quota years, however, no applicant may receive more than the amount he or she requests.

(ii) If, after reallocation is made among applying historical licensees for a quota, unallocated quantities of the quota still remain, such quantities may be allocated to other interested, but not affiliated, applicants who have historical or nonhistorical eligibility for any other quota under the regulation for the remainder of the quota year in question. Quota shares allocated to such other applicants under this provision will be made in equal amounts for not less than 2,500 pounds each; except in the case of quota items 950.04 (dried cream) and 950.11 (malted milk), which will be allocated in equal shares of not less than 250 pounds each; except that no applicant will receive more than the amount requested in his or her application.

(3) Application for a reallocated portion will be made in accordance with § 6.24 of the regulation.

(4) Any temporary reduction in a quota share (in accordance with paragraph (c) of this section) will be based on the percentage used of the portion of such quota share which was not reallocated during the preceding 2 quota years.

(g) *Allocations of newly established quotas and increased portions of already established quotas, and reduction of existing quotas.* No more than 50 percent of any newly established quota or increased portion of any already established quota may be allocated to eligible historical licensees. The remaining portion will be allocated to eligible nonhistorical licensees. To the extent possible, any reduction in an existing quota will be absorbed at the rate of 50 percent by historical licensees and 50 percent by nonhistorical licensees.

§ 6.27 Use of licenses.

(a) The article imported must be a product of the country of origin specified in the license under which it is entered.

(b) Notwithstanding any other rules, regulations, or procedures for the importation of goods, the article entered under license may be entered or withdrawn from warehouse only in the name of the licensee either by the licensee or by the licensee's agent acting in the licensee's name under power of attorney, and the quantity so entered must, on the date of entry, be owned by the licensee and must be charged against the license in effect. The article entered under license must be accompanied by evidence of ownership by the licensee and a through bill of lading from the country of origin named in the license: *Provided,* Than such requirement for a through bill of lading may be waived by the Licensing Authority upon his or her determination that compliance therewith, during periods of strikes, lockouts, or other such emergencies affecting the importation of articles would interfere with the entry of such article.

(c) In the event of a sale in transit, an article may be entered as a consumption entry under a license issued to an authorized person to whom the sale has been made against a properly endorsed through bill of lading and a certified copy of the bill of sale from the original consignee showing the amount paid, the date of purchase, and that the licensee is the owner of the article at such time.

(d) In the event of the loss of the original through bill of lading, a carrier's certificate showing the licensee as consignee and certifying that the shipment is a through shipment may be substituted therefor.

(e) An article may be entered as a warehouse entry under bond only in a manner prescribed above for consumption entries. Withdrawal of goods from bond may be made only under license issued to the licensee who made the entry; or, in the event of a sale in bond, under license issued to an authorized person or firm to whom the sale has been made and only upon the presentation of a properly endorsed customs form 7505 and a certified copy of the bill of sale, showing the amount, date of sale, and that the licensee is the owner of the article at such time.

(f) Consolidated entries or withdrawals from bond may not be made except with the written approval of the Licensing Authority.

(g) Each entry or withdrawal from bonded warehouse for consumption must be accompanied by a copy of Customs entry form 7501 or Customs warehouse withdrawal form 7505. The Customs Service will stamp the copy with the date of entry and the Customs entry or withdrawal number and submit it to the Licensing Authority.

§ 6.28 Records and inspection.

Any person making an importation, except as provided in § 6.23 of the regulation, of an article listed in appendix 1 is required to retain all records, including invoices of all purchases, entries, withdrawals, sales, and deliveries of such articles for a period of not less than 2 years sebsequent to the end of the quota year during which importation was made. The Licensing Authority or his or her designee is entitled to make such audit and inspection of such records, to inspect the premises and stocks of articles of such person, and to make such other investigations as may be necessary or appropriate in the enforcement or administration of the regulation.

§ 6.29 Suspension or revocation of eligibility.

(a) *Failure to import quota share.* (1) The eligibility of a person for a historical quota share of any article in appendix 1, upon said person's failure to import any of such article in any quota year, will be suspended for the

following quota year unless the reason for failure to import is acceptable to the Licensing Authority and an application to receive a license to import such article is received and approved by the Licensing Authority no later than 6 months after the beginning of such following quota year.

(2) The eligibility of a person for a historical quota share of any article will, upon said person's failure to import any of such article during 2 consecutive quota years, be revoked unless the licensee established that he or she was unable to import such article due to reasons acceptable to the Licensing Authority.

(b) *Violations of the regulation.*—(1) *Charge against licenses.* Any quantity of an article imported by any person contrary to this regulation may be charged against any unused import license held by, or to be issued to, such person for such article.

(2) *Civil and criminal liability.* Any person who violated any provision of the regulation may be prosecuted under any and all applicable laws. Civil action may also be instituted to inforce any liability or duty created by, or enjoin any violation of any provision of the regulation or requirement pursuant hereto.

(3) *Revocation of license eligibility.* The Licensing Authority, upon reasonable cause to believe—after records are reviewed and a preliminary investigation is made by the Department—that a licensee has violated the provisions of the regulation of has furnished false or incomplete information in connection with the use of licenses issued hereunder, may, after notice to the licensee, revoke said licensee's licensee and historical eligibility and may bar such person from receiving any nonhistorical licenses for a period of not less than 3 years. Any person whose eligiblity has been revoked pursuant to provisions of this section will have the opportunity to appeal the determination to the Administration, Foreign Agricultural Service (FAS), or his designee within 30 days from the date of notification. The request for reconsideration will be presented in writing separately stating any reason as to why such determination should not stand. The Administrator, FAS will provide such person with an opportunity for a hearing on such matter.

§ 6.31 Adjustment of countries of origin.

(a) Any person to whom a license has been issued for an article, upon submission of proof satisfactory to the Licensing Authority or his designee that said licensee will be unable to import during any quota year his quota share of such article from the country of origin specified in such license, may be authorized to obtain his quota share of such article from other specified countries of origin.

(b) To the extent it is determined that quantities of articles are not likely to be entered from any particular country of origin during a calendar year, the quota for such country will be reduced for such article for such year and the quotas for other countries of origin for such article will be increased for such year.

(c) Information concerning inability to import from particular countries of origin should be sent to the Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 6.32 Supersedure of import regulation 1, revision 5.

This regulation will supersede the provisions of import regulation 1, revision 5, as amended, heretofore in effect. With respect to violations, rights accrued, liabilities incurred, or appeals taken concerning import regulation 1, as amended and revised, prior to the effective date hereof, all provisions of said import regulation 1, as amended and revised, in effect at the time when such violations occurred, rights accrued, liabilities incurred, or appeals taken will be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

Signed this 28th day of August 1978.

THOMAS R. HUGHES,
Administrator, FAS.

SUBTITLE A—*Office of the Secretary of Agriculture*

[Appendix 1—Article [1] subject to import regulation 1, revision 6, and annual quotas for each quota year]

Article [1] by TSUS item number	Base period [2]	Annual import quota (pounds)	(Equivalent whole kilograms)
Group I:			
(a) Butter (Item 950.05)	Jan. 1, 1961 to Dec. 31, 1965.	707,000	320,693
New Zealand		332,000	150,594
Denmark		212,000	96,162
Other countries as follows: Argentina, Australia, Canada, Netherlands, Norway, Sweden, and Switzerland.		163,000	73,936
(b) Dried cream (item 950.04)	Jan. 1, 1951 to Dec. 31, 1952.	500	226
(c) Malted milk (item 950.11)	July 1, 1951 to June 30, 1952.	6,000	2,721
(d) Dried whole milk (item 950.03)	July 1, 1951 to Dec. 31, 1952.	7,000	3,175
(e) Dried skimmed milk (item 950.02)	July 1, 1950 to Aug. 8, 1951.	1,807,000	819,649
(f) Dried buttermilk and whey (item 950.01)	Jan. 1, 1951 to Dec. 31, 1952.	496,000	224,984
Group II: [3]	Jan. 1, 1948 to Dec. 31, 1950 [4].		
Edam and Gouda cheese (item 950.09A)		9,200,400	4,173,274
(b) Blue-mold cheese (except stilton), and cheese and substitutes for cheese containing or processed from Blue-mold cheese (item 950.07).		5,016,999	2,275,695
(c) Italian-type cheeses made from cow's milk, in original loaves, Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrina (item 950.10).		11,500,100	5,216,411
Group III: [3]	Jan. 1 1961 to Dec. 31, 1965.		
Cheddar cheese, and cheese and substitutes for cheese containing or processed from Cheddar cheese (item 950.08A).		8,812,500	3,997,323
Australia		1,696,150	769,368
Canada		612,352	277,761
Ireland		562,250	255,034
New Zealand		5,502,498	2,495,916
Sweden		130,850	59,353
Other countries as follows: Austria, Belgium, Bulgaria, Denmark, Israel, Italy, Netherlands, Portugal, Switzerland, United Kingdon, and West Germany.		308,400	139,889
American-type cheese, including Colby washed curd, and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing, or processed from, such.			
American-type cheese (item 950.08B)		6,096,600	2,765,399
Australia		1,680,000	762,043
Ireland		560,000	254,014
New Zealand		3,360,000	1,524,086
Sweden		125,000	56,699
Other countries as follows: Austria, Belgium, Bulgaria, Italy, Denmark, Israel, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany.		371,600	168,556
Group IV: [3]	Jan. 1, 1965 to Dec. 31, 1967.		

SUBTITLE A—*Office of the Secretary of Agriculture*—Continued

[Appendix 1—Article [1] subject to import regulation 1, revision 6, and annual quotas for each quota year]

Article [1] by TSUS item number	Base period [2]	Annual import quota (pounds)	(Equivalent whole kilograms)
Cheese and substitutes for cheese containing, or processed from Edam and Gouda cheese (item 950.09B).		3,151,000	1,429,284
Denmark		1,714,000	777,465
Ireland		331,000	150,140
Netherlands		169,000	76,657
Norway		368,000	166,923
West Germany		513,000	232,695
Other countries		56,000	25,401
Group V: [3]			
Chese described below, if shipped otherwise that in pursuance to a purchase, or if having a purchase price [3] under $1.10 per pound			
Swiss or Emmenthaler cheese with eye formation; Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from, such cheeses.	Jan. 1, 1967, to Dec. 31, 1967. Jan. 1, 1970, to Dec. 31, 1970.		
(a) Swiss or Emmenthaler with eye formation (Item 950.10B).		20,420,000	9,262,451
Austria		8,222,000	3,729,474
Denmark		3,396,000	1,540,415
Finland		6,111,000	2,771,931
Norway		1,672,000	758,414
Switzerland		269,000	122,017
West Germany		292,000	132,450
Netherlands		210,000	95,255
Israel		60,000	27,215
Other countries		188,000	85,276
(b) Other than Swiss or Emmenthaler with eye formation (item 950.10C).		11,242,000	5,099,337
Austria		1,406,000	637,757
Denmark		3,435,000	1,558,105
Finland		1,606,000	728,476
Switzerland		2,234,000	1,013,335
West Germany		1,818,000	824,639
Ireland		210,000	95,255
Norway		82,000	37,194
Portugal		275,000	124,739
Other countries		176,000	79,833
(c) Cheese and substitutes for cheese provided for in items 117.75 and 117.85, part 4C, schedule 1 (except cheese not containing cow's milk; cheese, except cottage cheese, containing 0.5 percent or less by weight of butterfat), and articles within the scope of other quotas provided for in part 3 of the appendix to the tarriff schedule of the United States (item 950.10D).	Jan. 1, 1967, to Dec. 31, 1967. Jan. 1, 1970, to Dec. 31, 1970.	40,730,000	18,475,006
Belgium		469,000	212,737
Denmark		16,820,000	7,629,501
Finland		1,239,000	562,006
France		2,882,000	1,307,266
Iceland		649,000	294,384
Ireland		161,000	73,029
Netherlands		422,000	191,417
Norway		356,000	161,480
Poland		2,064,000	936,224
Sweden		1,707,000	774,290
Switzerland		215,000	97,523
United Kingdom		496,000	224,984
West Germany		2,148,000	974,326
New Zealand		7,556,000	3,427,379
Canada		2,670,000	1,211,104
Portugal		227,000	102,966
Austria		199,000	90,265
Italy		17,000	7,711
Israel		145,000	65,771
Other countries		288,000	130,635
(d) Cheese and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.85 of subpart C, part 4, schedule 1, except articles within the scope of other import quotas provided for in part 3 of the appendix to the tarrif schedules of the United States (item 950.10E).	July 1, 1969 to June 30, 1970.	8,901,000	4,037,467
Denmark		6,680,000	3,030,028
United Kingdom		791,000	358,795
Ireland		756,500	343,146
West Germany		100,000	45,359
Poland		385,600	174,907
Australia		123,600	56,064
Iceland		64,300	29,166
Other countries		None	None
Group VI: [3]	Jan. 1, 1965, to Dec. 31, 1967.		
Italian-type cheeses, made from cow's milk, not in original loaves (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, and Sbrinz), and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (item 950.10A).		1,494,000	677,673
Argentina		1,347,000	610,995
Italy		104,500	47,400
Australia		13,700	6,214
Other countries		28,800	13,063
Group VII: [3]			
(Chocolate provided for in item 156.30, of part 10, schedule 1, if containing over 5.5 percent by weight of butterfat (except articles for consumption at retail as candy or confection) (item 950.15).	Jan 1, 1965, to Dec. 31, 1967.	17,000,000	7,711,149
Ireland		9,450,000	4,286,491
United Kingdom		7,450,00	3,379,297
Netherlands		100,000	45,359
Other countries		None	None
Chocolate provided for in item 156.30 of part 10 and articles containing chocolate provided for in item 182.95, part 15, schedule 1, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection) (item 950.16).	July 1, 1969, to June 30, 1970.	4,680,000	2,122,834
United Kingdon		930,000	421,845
Ireland		3,750,000	1,700,988
Other		None	None

[1] Each time a particular TSUS item number is referred to in this appendix it includes all the articles classified under that item number in pt. 3 of the appendix to the tariff schedules of the United States except where specifically otherwise provided in the article description.

[2] Importers of record during following periods have historical eligibility; each importers's quota share is prorated on basis of his historical imports from each country of origin. For TSUS items Nos. 950.10B, 950.10C, and 950.10D each importer's quota share is a combination of his quota share determined for the respective cheese priced under 47 cents per pound (1967 base period) and a quota share determined on the basis of imports of the respective cheese priced from 47 cents to 62 cents per pound during the 1970 base period.

[3] Annual quota allocated 2 times annually on Jan. 1 and July 1 of each quota year.

[4] Importer's allocation based on 1950 imports or base period averages, whichever are higher.

[5] "Purchase price," in accordance with headnote 3(a)(iii) of pt. 3 of the appendix to the tarriff schedules of the United States, is determined by the District Director of Customs on the basis of the aggregate price received by the exporter, including all expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, but excluding transportation, insurance duty, and other charges incident to bringing the merchandise from the place of shipment from the country of exportation to the place of delivery in the United States.

(Sec. 3, 62 Stat. 1248, as amended (7 U.S.C. 624); pt. 3 of the appendix to the tarriff schedules of the United States (9 U.S.C. 1202).

[FR Doc. 78-24470 Filed 8-31-78; 8:45 am]

[3410-05]

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

1979 UPLAND COTTON PROGRAM

Proposed Determinations Regarding National Program Acreage, Program Allocation Factor, Set-Aside, Additional Diversion, and Limitation on Planted Acreage

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1979-crop of upland cotton:

a. Established (target) price.
b. National program acreage.
c. Program allocation factor.
d. Voluntary reduction percentage.
e. Whether there should be a set-aside requirement and, if so, the extent of such requirement.
f. If a set-aside is required, whether there should be a limitation on planted acreage and, if so, the extent of such limitation.
g. Whether there should be a provision for additional diversion and, if so, the extent of such diversion and the payment therefor.

The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 and the Act of May 15, 1978.

This notice invites written comments on these proposed determinations.

DATE: Comments must be received on or before October 20, 1978.

ADDRESS: Mail comments to Acting Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

Comments will be made available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1979 crop of upland cotton are to be made pursuant to the Agricultural Act of 1949 (63 Stat. 1051, 7 U.S.C. 1421), as amended by the Food and Agriculture Act of 1977 (Pub. L. 95-113) and the Act of May 15, 1978 (Pub. L. 95-279) (hereinafter referred to as the "Act"):

a. *Established (target) price.* Section 103(f)(4) of the Act provides that the established price for the 1979 crop shall be the established price for the 1978 crop (52.00 cents per pound) adjusted to reflect any change in the average adjusted cost of production for the two crop years 1977 and 1978 from the average adjusted cost of production for the two crop years 1976 and 1977. The adjusted costs of production for each of such years shall be determined by the Secretary on the basis of such information as he finds necessary and appropriate and shall be limited to (1) variable costs, (2) machinery ownership costs, and (3) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop. In no event, however, shall the established price for the 1979 crop be less than 51 cents per pound.

If a set-aside is in effect for the 1979-crop of upland cotton, the established price may be increased by an amount determined appropriate to compensate producers for participation in such set-aside. In determining the amount of any such increase the changes in the cost of production resulting from participation in the set-aside must be taken into account. If the established price is increased for any other commodity for which a set-aside is in effect, the established price may also be increased for upland cotton in such amount as is determined necessary for effective operation of the program. Any increase in the established price must be adjusted to reflect, in whole or in part, any land diversion payments that may be made.

b. *National program acreage.* Section 103(f)(7) of the Act requires the Secretary to announce a national program acreage for the 1979 crop by December 15, 1978. Such national program acreage may, however, be subsequently revised for purposes of determining the allocation factor if the Secretary determines it necessary based on the latest information. Any revision shall be announced as soon as it has been made. The national program acreage shall be the number of harvested acres the Secretary determines, based on the estimated weighted national average of the farm program payment yields for the 1979 crop, will produce the estimated quantity (less imports) that will be utilized domestically and for export during the 1979-80 marketing year (which begins August 1, 1979). The Secretary may make such adjustment in the national program acreage as he determines necessary, taking into consideration the estimated carryover supply, to provide for an adequate but not excessive total supply of cotton for the 1979-80 marketing year. In no event, however, shall the national program acreage be less than 10 million acres.

Currently, domestic mill use is estimated at 6.6 million bales and exports at 5.0 million bales during the 1979-80 marketing year. The 1979 national weighted average of the farm program payment yields is tentatively estimated at 505 pounds. Stocks on August 1, 1979, could range from about 4.2 to 6.2 million bales depending on production, mill use and exports during the 1978-79 marketing year. About 4 to 4.5 million bales is generally considered a desirable carryover level. Based on these tentative figures the 1979 national program acreage could range from 10.0 to about 11.0 million acres with 10.2 million the most likely level based on current estimates.

c. *Program allocation factor.* Section 103(f)(8) of the Act requires the Secretary to determine a program allocation factor for the 1979 crop. The allocation factor (not to exceed 100 percent) shall be determined by dividing the

national program acreage for the 1979 crop by the estimated harvested acreage for such crop.

d. *Voluntary reduction percentage.* Section 103(f)(9) of the Act provides that the 1979 cotton acreage eligible for payment on a farm shall not be reduced by application of the allocation factor if the producers reduce the acreage of cotton planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in his proclamation of the national program acreage.

e. *Whether there should be a set-aside requirement and, if so, the extent of such requirement.* Section 103(f)(11)(A) of the Act requires the Secretary to provide for a set-aside of cropland if he determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect, then as a condition of elgibility for loans, purchases, and payments on upland cotton, producers must set aside and devote to conservation uses an acreage of cropland equal to such percentage of the acreage of upland cotton planted for harvest during the 1979 crop year as the Secretary determines (not to exceed 28 percent).

The need for a cotton set-aside in 1979 will depend on several factors. Production conditions throughout the world during the current 1978 crop year will have a significant impact on the actions which may need to be taken for the 1979 cotton crop. If favorable crop conditions exist for the 1978 cotton crop, ending U.S. cotton stocks as of August 1, 1979, could be around 6.2 million bales. This level of stocks and continued favorable production conditions for the 1979 crop would indicate that a set-aside would be needed to adjust 1979 cotton supplies.

On the other hand, if worldwide production conditions during the balance of the current crop year are unfavorable, stocks at the end of the 1978–79 marketing year could be below 4.5 million bales. If these unfavorable conditions continued into 1979, no set-aside would be required for the 1979 cotton program.

Thus, additional information is needed concerning the size of the 1978 cotton crop as well as foreign production prospects and needs before a final decision can be made on the need for a set-aside for 1979.

f. *Whether the acreage planted to upland cotton should be limited and, if so, the extent of such limitation.* Section 103(f)(11)(A) of the Act also provides that the Secretary may limit the acreage planted to upland cotton if a set-aside is in effect. Any such limitation must be applied on a uniform basis to all cotton producing farms. Producers on a farm who knowingly plant cotton in excess of the permitted cotton acreage for the farm shall be ineligible for cotton loans or payments on that farm.

g. *Whether there should be a provision for additional diversion, and, if so, the extent of such diversion and the payment therefor.* Section 103(f)(11)(B) of the Act provides that the Secretary may make land diversion payments to producers of upland cotton, whether or not a set-aside for upland cotton is in effect, if he determines that such payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under such contracts may be determined through the submission of bids for such contracts by producers or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary is required to limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

Prior to determining the provisions for the 1979 upland cotton program, the Secretary will consider any views or recommendations relative to the above items.

Cotton producers have expressed an interest in knowing all the major provisions of the 1979 cotton program before the mandatory date of December 15, 1978. In order to do this it is impossible to comply with the 60 day public rulemaking requirement. Accordingly, comments must be received by October 20, 1978, in order to be assured of consideration.

NOTE.—The Agricultural Stabilization and Conservation Service (ASCS) has determined that this document does contain a major proposal requiring preparation of a Draft Impact Analysis Statement. The Draft Impact Analysis is available from Charles V. Cunningham, (ASCS), 202-447-7873.

Signed at Washington, D.C., on August 29, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-24736 Filed 8-29-78; 4:09 pm]

[3410-05]

Commodity Credit Corporation

[7 CFR Part 1427]

COTTON

Proposed Determinations Regarding 1979-Crop Loan and Payment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1979 crops of upland cotton and extra long staple cotton (referred to as "ELS cotton"):

a. Loan level for upland lint cotton.

b. Loan level and payment rate for ELS lint cotton.

c. Specifications for bale packaging materials.

d. Whether a seed cotton loan program should be offered and, if so, the loan levels for such seed cotton.

The above determinations are authorized by the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act, as amended. This notice invites comments of these proposed determinations.

DATES: Comments must be received on or before October 20, 1978.

ADDRESSES: Mail comment to Acting Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013. Comments will be made available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS), 202-447-7837.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1979-crops are made pursuant to the Agricultural Act of 1949 (63 Stat. 1051, 7 U.S.C. 1421), as amended (hereinafter referred to as the "Act"):

a. *Loan level for upland lint cotton.* Section 103(f)(1) of the Act requires the Secretary to determine and announce the loan level for the 1979 crop November 1, 1978. Such loan level

must reflect for Strict Low Middling (SLM) 1⅛ inch upland cotton (micronaire 3.5 through 4.9), at average location in the United States the smaller of (1) 85 percent of the average price (weighted by market and month) of such quality of cotton as quoted in the designated U.S. spot markets during the 5-year period ending July 31, 1978, excluding the year with the highest and the year with the lowest average price, or (2) 90 percent of the average, for the 15-week period beginning July 1, 1978, of the five lowest priced growths quoted for Strict Middling (SM) 1⅛ inch cotton, C.I.F. northern Europe (adjusted downward by the average difference during the period April 15, 1978 through October 15, 1978, between such average northern Europe price quotation for such quality of cotton and the market quotations in the designated U.S. spot markets for SLM 1⅛ inch cotton (micronaire 3.5 through 4.9)).

In no event, however, shall such loan level be less than 48 cents per pound. Further, if the northern Europe calculation results in a loan level less than that derived from the spot market calculation, the Secretary may increase the loan level up to that level provided by the spot market calculation.

The spot market calculation would result in a 1979-crop loan level for SLM 1⅛ inch upland cotton, micronaire 3.5 through 4.9, of 50.23 cents per pound, determined as follows:

(1) Weighted average spot market prices for SLM 1⅛ inch upland cotton, micronaire 3.5 through 4.9:

August 1973 through July 1974, 70.84 cents.
August 1974 through July 1975, 38.89 cents.
August 1975 through July 1976, 55.29 cents.
August 1976 through July 1977, 71.59 cents.
August 1977 through July 1978, 51.15 cents.

(2) Average of the 5 years, excluding the highest and lowest years:

$(70.84+55.29+51.15)\div 3=59.09$ cents.

(3) Loan rate based on U.S. spot market:

$59.09\times .85=50.23$ cents.

This figure of 50.23 cents would be the maximum level at which the 1979 loan rate could be determined, as provided in the Act.

If the northern Europe quotations should result in a loan level of less than 50.23 cents, the Secretary would have authority to set the loan at a level up to 50.23 cents. In such an event, careful consideration would have to be given to the impact that this would have on exports of upland cotton from the United States.

b. *Loan level and payment rate for ELS lint cotton.* Section 101(f) of the Act requires that price support shall be made available to cooperators for the 1968 and each subsequent crop of ELS cotton, if producers have not disapproved marketing quotas therefor, through loans at a level which is not less than 50 percent or more than 100 percent in excess of the loan level established for Strict Low Middling 1⅛ inch upland cotton of such crop at average location in the United States (except that such loan level for ELS cotton shall in no event be less than 35 cents per pound). Section 101(f) also provides for price support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 percent or more than 90 percent of the parity price for ELS cotton as of the month in which the payment rate provided for is announced. Section 401 of the Act requires that, in determing the level of support in excess of the minimum level prescribed for ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Assuming a loan level for upland cotton of 50.23 cents per pound, the possible range of the loan rate for ELS cotton would be 75.35 to 100.46 cents per pound.

The August 1978 parity price for ELS cotton is $1.42 per pound. The minimum total support for ELS (loan rate plus support payment rate) must be at least 65 percent of parity, or 92.30 cents per pound based on August parity. If the ELS loan level were determined to be less than the minimum support, the difference would be paid directly to ELS producers as a support payment.

c. *Specifications for bale packaging materials.* The specifications for bale packaging materials used for cotton tendered to the Commodity Credit Corporation under its cotton loan program are being reviewed for 1979. The latest revision of the bale packaging specifications was published in the FEDERAL REGISTER on May 4, 1978 (43 FR 19193). Consideration will be given to amending the specifications as recommended by the Cotton Industry Bale Packaging Committee.

The following determinations are to be made pursuant to section 5 (a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c):

a. *Whether a seed cotton loan program should be offered.* The Department is not required to offer a seed cotton loan program. However, such a program—providing for recourse-type loans—was instituted by the Commodity Credit Corporation for 1971-crop seed cotton and has been renewed each crop year since. The program is being reviewed to determine whether it should be continued for 1979.

b. *Loan levels for seed cotton if program is offered.* Consideration is being given to the levels at which loans should be made available for seed cotton under the 1979 program.

Prior to determining the provisions for the 1979 programs the Secretary will consider any views or recommendations relative to the above items.

Executive Order 12044 (43 FR 12661, Mar. 24, 1978) requires at least a 60-day public comment period on any proposed significant regulations except where the Agency determines this is not possible or in the best interests of producers. In view of the fact that the loan level for upland lint cotton for the 1979 crop must be announced by November 1, 1978, it is hereby found and determined that compliance with provisions of Executive Order 12044 is impossible. Accordingly, comments must be received by October 20, 1978, in order to be assured of consideration.

NOTE.—The Agricultural Stabilization and Conservation Service (ASCS) has determined that this document does contain a major proposal requiring preparation of a draft impact analysis statement. The draft impact analysis is available from Charles V. Cunningham (ASCS), 202-447-7873.

Signed at Washington, D.C., on August 29, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-24737 Filed 8-29-78; 4:09 pm]

[3410-37]

Food Safety and Quality Service

[9 CFR Part 318]

SUBSTANCES USED IN PREPARATION OF BACON

Revision of Proposed Rulemaking

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule; revision.

SUMMARY: This document revises the Department's proposed amendment of the Federal meat inspection regulations with respect to nitrites and other substances used in the preparation of bacon which was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21007-21008). It was proposed to require that 40 parts per million (ppm) sodium nitrite or an equivalent amount of potassium nitrite (49 ppm) be used in bacon and that 0.26

percent potassium sorbate by weight of bacon be used in bacon. The proposal is revised to propose to require that 550 ppm sodium ascorbate or sodium erythorbate (isoascorbate) also be used in bacon. This was inadvertently omitted from the proposal. This proposed rule as revised is for the purpose of proposing to further reduce the amount of nitrite used in bacon while still providing protection against botulinal hazards.

DATE: Comments and data must be received on or before November 16, 1978.

ADDRESSES: Written comments to: Executive Secretariat, Attn: Ann Langlois, Room 3167, South Agriculture Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTRACT:

Mr. Irwin Fried, Acting Director, Product Standards and Labels Division, Food Safety and Quality Service, United States Department of Agriculture, Room 202, Annex Building, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION:

COMMENTS

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Executive Secretariat. Comments should bear reference to the date and page number of this issue of the FEDERAL REGISTER. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

BACKGROUND

On May 16, 1978, the Department published in the FEDERAL REGISTER a proposal to amend the Federal meat inspection regulations by requiring that 40 parts per million (ppm) of sodium nitrite or an equivalent amount of potassium nitrite (49 ppm) be used in bacon and by requiring that 0.26 percent potassium sorbate by weight of bacon be used in bacon. This proposal was based on data submitted by industry in connection with experiments concerning the processing of bacon.

These experiments appear to establish that bacon can be produced under properly controlled conditions so that it does not contain confirmable levels of nitrosamines. However, these experiments also included the use of 550 ppm sodium erythorbate (isoascorbate), which was used for the purpose of blocking nitrosamine formation. Provisions to propose to require the use of 550 ppm sodium erythorbate (isoascorbate) or, alternatively, 550 ppm sodium ascorbate, in bacon, were inadvertently left out of the proposal. It was intended to propose to permit 550 ppm sodium ascorbate to be used in lieu of 550 ppm sodium erythorbate (isoascorbate) because both appear to have identical activity with respect to the blocking of nitrosamine formation. Accordingly, the proposal is revised to also propose to require the use of 550 ppm sodium ascorbate or sodium erythorbate (isoascorbate) in bacon.

In order to assure the prevention of toxin formation by *Clostridium botulinum*, the current regulations (9 CFR 318.7(b); 43 FR 20992-20995) require the use of 120 ppm sodium nitrite or an equivalent amount of potassium nitrite (148 ppm). However, the experiments referred to above appear to establish that 40 ppm sodium nitrite or 49 ppm potassium nitrite, and 0.26 percent potassium sorbate in bacon would have an effect equal to that of 120 ppm of nitrite alone with respect to the prevention of toxin formation by *Clostridium botulinum*.

The data that support these conclusions were submitted by industry in response to the USDA notice for such data published in the FEDERAL REGISTER on October 18, 1977, and are available for viewing at the USDA office of the Executive Secretariat.

However, since the data submitted on this new method of processing bacon were derived from experiments involving relatively small numbers of bacon samples in comparison to the total volume of bacon produced annually, it has been determined that additional studies should be undertaken in an effort to substantiate the original findings submitted by the industry. The Administrator is of the view that 12 months from May 16, 1978, the date of the first proposal, is sufficient time for these studies to be conducted and for the process to be evaluated under actual processing plant operating conditions.

Under these circumstances, the Administrator has determined that, if the data referred to above are confirmed by additional testing and interested parties do not provide substantive data demonstrating that bacon made with ppm sodium nitrite or an equivalent amount of potassium nitrite (49 ppm), 0.26 percent potassium sorbate, and 550 ppm sodium ascorbate or sodium erythorbate (isoascorbate) would not adequately prevent botulinal toxin formation and be free from confirmable levels of nitrosamines, action will be taken to promulgate this proposal as a final rule if at all possible within a maximum of one year from May 16, 1978.

The cut-off date for submission of comments and data (November 16, 1978) and the target period for action to be taken on this proposal (within a maximum of one year from May 16, 1978) are the same as those published in the first proposal. It does not appear necessary to make extensions in that it appears that those likely to conduct further experiments in response to the experiments referred to above, have been aware for some time that such experiments involved bacon made with 550 ppm sodium erythobate (isoascorbate). Amendment of regulations: On the basis of the foregoing, the proposed amendment of § 318.7(b) of the Federal meat inspection regulations (9 CFR 318.7(b)) is revised to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(b) Requirements for the use of nitrite, potassium sorbate, and sodium ascorbate or sodium erythorbate (isoascorbate), in bacon.

(1) With respect to bacon: sodium nitrite shall be used at a level so as to introduce 40 parts per million (ppm) or potassium nitrite shall be used at a level so as to introduce 49 ppm; 0.26 percent potassium sorbate by weight of bacon shall be used; and sodium ascorbate or sodium erythorbate (isoascorbate) shall be used at a level so as to introduce 550 ppm. Sodium ascorbate or sodium erythorbate have molecular weights of approximately 198. Hydrated forms of these substances shall be adjusted to attain the equivalent of 550 ppm sodium ascorbate or sodium erythorbate.

* * * * *

A draft Impact Analysis Statement was prepared in connection with the May 16 proposal and is available from the Food Safety and Quality Service.

Done at Washington, D.C. on: August 25, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-24687 Filed 8-31-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9050]

BLOCK DRUG CO., INC., ET AL.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting

unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a New York City advertising firm to cease misrepresenting or making unsubstantiated claims regarding the performance or efficacy of denture adhesives and cleansers.

DATE: Comments must be received on or before October 30, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Albert H. Kramer, Director, Bureau of Consumer Protection, Federal Trade Commission, Room 488, 6th Street and Pennsylvania Avenue NW., Washington D.C. 20580, 202-523-3727.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25 of the Commission's rules of practice (16 CFR 3.25), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9050]

GREY ADVERTISING, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The agreement herein, by and between Grey Advertising, Inc., a corporation, respondent in the above proceeding initiated by the Federal Trade Commission, by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rules governing consent order procedure.

1. Respondent Grey Advertising, Inc., (hereinafter sometimes referred to as respondent) is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 777 Third Avenue, New York, N.Y. 10017.

2. Respondent has been served with the Commission's complaint charging it with violation of sections 5 and 12 of the Federal Trade Commission Act, together with a form of order the Commission believes warranted in the circumstances.

3. Respondent admits all the jurisdictional facts set forth in the said copy of the complaint of the Commission.

4. Respondent waives:

(1) Any further procedural steps;

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

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

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

6. No agreement, understanding, representation, or interpretation not contained in the order or the aforementioned agreement may be used to vary or to contradict the terms of the order.

7. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated or that any of the facts are true as alleged in the said complaint of the Commission issued in this proceeding.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's rules, the Commission may, without further notice to respondent: (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding; (2) reissue its complaint; and (3) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order.

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

ORDER

It is ordered, That respondent Grey Advertising, Inc., and its officers, representatives, agents, and employees directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of products, by the respondent in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making any statement or representations directly or by implication concerning any performance or other characteristic or attribute of any dental product, except denture cleansers, unless respondent possessed and relied upon a reasonable basis for each such statement or representation at the time it was made or respondent can establish that it neither knew nor should have known that its basis was not reasonable.

2. Making any comparative statements or representations directly or by implication concerning any performance attribute of any competing denture cleanser products unless respondent possessed and relied upon a reasonable basis for each such statement or representation at the time it was made or respondent can establish that it neither knew nor should have known that its basis was not reasonable.

3. Misrepresenting in any manner the effectiveness of any denture adhesive product.

4. Representing, directly or by implication, that: a. Every user of denture adhesives, regardless of his or her particular denture holding problem, can eat any of a group of so-called "problem" foods (including, for example, apples, peanuts, carrots, steak, corn-on-the-cob, celery, thick sandwiches, fried chicken and caramels) without embarrassment or discomfort; and/or

b. After the use of a denture adhesive, dentures will hold in place for every denture wearer, regardless of his or her particular denture holding

problem, when the wearer eats any of the aforementioned "problem" foods.

5. As referred to herein, the term reasonable basis may consist of an opinion, where appropriate, in writing signed by a person qualified by education or experience to render the opinion that a competent scientific test(s) or other objective data exist: *Provided however,* That such opinion also discloses and describes the contents of such test(s) or other objective data.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

It is further ordered, That the respondent submit to the Commission, in writing, a compliance report detailing the manner and form in which it complied with this order. Such reports shall be submitted sixty (60) days after the entry of a final order and, thereafter, annually for two (2) years from the date of the first submission.

In addition, any provision of this order shall abate when inconsistent with a final Federal Trade Commission trade regulation rule if the trade regulation rule specifically authorizes any claim prohibited herein.

GREY ADVERTISING, INC.

[Docket No. 9050]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has provisionally accepted an agreement to a proposed consent order from the above-named company.

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

The complaint charged respondent Grey Advertising, Inc. ("Grey") with disseminating advertisements containing false, misleading, deceptive and unsubstantiated representations for Poli-Grip and Super Poli-Grip denture adhesives and Polident denture cleanser.

Therefore, the order contains the following provisions corresponding to the violations charged:

1. Grey is prohibited from making any representations concerning any characteristic of any dental product, except denture cleansers, unless it possesses and relies upon a reasonable basis for each such representation at the time it is made. It is a defense under this provision if Grey can establish that it neither knew, nor should have known, that its basis was not reasonable.

2. Grey is prohibited from making any comparative representations concerning any performance characteristic of any competing denture cleansers, unless it possesses and relies upon a reasonable basis for each such representation at the time it is made. It is a defense under this provision if Grey can establish that it neither knew, nor should have known, that its basis was not reasonable.

3. Grey is prohibited from misrepresenting the effectiveness of any denture adhesive product.

4. Grey is prohibited from making the following representations:

a. Every user of denture adhesive, regardless of his or her particular denture holding problem, can eat any of a group of so-called "problem" foods (including, for example, apples, peanuts, carrots, steak, corn-on-the-cob, celery, thick sandwiches, fried chicken and caramels) without embarrassment or discomfort; and/or

b. After the use of a denture adhesive, dentures will hold in place for every denture wearer, regardless of his or her particular denture holding problem, when the wearer eats any of the aforementioned "problem" foods.

5. The term "reasonable basis", for purposes of this order, may consist of an opinion, where appropriate, in writing and signed by a qualifed individual. Such written opinion must indicate that it is based upon scientific tests or other objective data, and must describe the contents of such tests or other objective data.

6. Grey is required to distribute a copy of the order to each of its operating divisions.

7. Grey is required to report to the Commission within sixty days after the order becomes effective how it is complying with the order. Additional compliance reports must be made annually for two years.

8. Grey must notify the Commission at least thirty days prior to any anticipated change in its corporate structure which would affect its obligations under the order.

9. If a subsequently enacted trade regulation rule specifically authorizes any claim prohibited by this order, the rule shall be controlling.

The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-24713 Filed 8-31-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 1]

[Docket No. RM78-22]

REVISION OF RULES OF PRACTICE AND PROCEDURE

Request for Comments

AGENCY: Federal Energy Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Federal Energy Regulatory Commission invites comments on the various procedural rules applicable to proceedings before the Commission. The notice points out that different rules of practice apply to different functions performed by the Commission. To the extent possible a single body of rules will be developed to simplify and expedite proceedings before the Commission. Proposed rules will be developed following analysis of comments received in response to this notice.

DATE: Comments must be received on or before September 29, 1978.

ADDRESS: Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Dan Goldstein, 825 North Capitol Street NE., Washington, D.C. 20426, phone 275-4330.

SUPPLEMENTARY INFORMATION: Effective October 1, 1977, the Federal Energy Regulatory Commission ("Commission" or "FERC") was established under the Department of Energy Organization Act ("DOE Act"). The Commission discharges most of the statutory duties previously exercised by the Federal Power Commission under the Federal Power Act and the Natural Gas Act. In addition, it regulates transportation of oil by pipeline under the Interstate Commerce Act (a function transferred from the Interstate Commerce Commission) and reviews the exercise by the Secretary of Energy of a number of functions transferred to him from

the Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission, and other agencies. Finally, the Secretary has delegated and assigned to the Commission a number of additional functions (including information gathering authorities under the Federal Energy Administration Act of 1974 ("FEAA") and the Energy Supply and Environmental Coordination Act of 1974 ("ESECA")) which were vested by the DOE Act in the Secretary.

The Commission operates under the rules of practice inherited from its predecessor agencies. Section 401(f) of the DOE Act provides that the predecessor agencies' rules of practice apply to functions transferred from those agencies until the Commission adopts new rules of practice. Sections 401(f) and 705(a) of the DOE Act generally preserve the applicability of rules of predecessor agencies with respect to functions transferred from those agencies until those rules are changed by the Commission.[1]

The effect of these provisions of the DOE Act is to retain the rules of practice of the FPC with respect to the FERC's regulation under the Natural Gas Act and the Federal Power Act, to retain the rules of practice of the ICC with respect to the Commission's oil pipeline regulation, and to make the rules of practice of FEA applicable to whatever functions the Commission may exercise under functions transferred from FEA.[2]

The Commission regards revision of its rules of practice as of particular importance in dealing with its regulatory responsibility. The FERC's management studies confirm what has been evident to most observers of the FPC regulatory process; namely, that the FPC experienced increasing difficulty in exercising its regulatory functions under the Natural Gas Act and the Federal Power Act. The FERC, which has greater jurisdiction and at present a smaller staff[3] than the FPC, must expect similar difficulty absent major changes in the regulatory process.

By way of example, the FERC's studies indicate that docketed filings with the Commission, of which about 7,125 will be received in fiscal 1978, will increase at a rate of about 550 per year. As of end of fiscal year 1978 the FERC expects a carryover of approximately 6,833 uncompleted cases. The FERC, in a May 1978 response to a questionnaire from a congressional subcommittee, identified the 10 cases which had been pending longest before the Commission. The oldest case was commenced in 1957, the most recent of the 10 was filed in 1963.

An examination of the period necessary to complete Commission action on a major hydroelectric license for new capacity indicates that the average length of time of Commission proceedings for licenses of that type issued in fiscal year 1977 was over 54 months. Likewise, the electric rate cases concluded by Commission decision rather than by settlement in fiscal year 1977, required on the average 41 months from filing to Commission decision.[4] In the case of Commission proceedings under the Natural Gas Act, in fiscal year 1977 pipeline rate cases disposed of by formal opinion took an average of 41 months from time of rate increase filing to issuance of Commission opinion. The one major curtailment plan approved in fiscal year 1977 took 5 years to complete and the one major pipeline abandonment case completed in that fiscal year took 3 years to complete.

The management studies which the Commission has commenced indicate that average case processing times experienced in fiscal year 1977 can be shortened. However, these studies also indicate that the period necessary to process the average case, using the Commission's exisiting procedure, is still unacceptably long. For the average major hydroelectric case, the time necessary to complete the existing process of docketing, application review, solicitation of agency comment, on-the-record hearing, initial decision, exceptions thereto, review by the Office of Opinions and Review, and Commission decision can be reduced from 54 months to approximately 3¾ years. The same studies indicate that the processing time under the existing process for the average electric rate case can be reduced from 45 months to 19 months, and for the average pipeline rate case, from 41 months to 26 months. In order to obtain further reduction, the Commission must decrease the number of steps in the processes, increase the resources allocated to these proceedings or simplify the regulations or statutory requirements applicable to these proceedings.

The impacts of this coagulation of the regulatory process on the public and on the industries regulated by the Commission are difficult to quantify. However, the delay is undoubtedly of major consequence, and is—in the Commission's view—unacceptable. In recognition of these difficulties, the Commission is engaged in a program to improve its regulatory process—first a series of management studies;[5] second, a concerted effort to obtain recommendation from the President and authorization from Congress for the additional budgetary and personnel resources necessary to carry out its regulatory responsibilities; third, conduct of a comprehensive review of its existing substantive rules in order to strengthen its programs in areas, such as enforcement, where the Commission has been less effective than it might have been and to eliminate unnecessary regulatory requirements; fourth, to review its statutory authorities in order to recommend any necessary changes to the Congress; and, fifth, to replace the present multiple rules of practice with a single body of rules which will permit the Commission to simplify its proceedings and eliminate unnecessary procedural steps. This notice relates to the last part of the program, revision of the rules of practice.

The Commission will begin the revision of its rules of practice by requesting public comment, not later than September 29, 1978, on its existing rules and on a number of specific issues related to its administrative procedure. The Commission intends to publish a notice of proposed rulemaking and to prescribe a final rule as expeditiously as possible thereafter. An advisory committee will be established to obtain advice and comment on a continuing basis from practitioners, representatives of regulated industries, wholesale customers, and consumers, and other persons familiar with administrative procedure.

Any interested person may submit suggestions and comments to the Federal Energy Regulatory Commission in writing not later than September 29, 1978. Such written submittals will be placed in the Commission's public files and will be open to public inspection

[1] See also, FERC order No. 1, issued October 6, 1977.

[2] It should be noted that Commission's functions under section 402(c), 404, 503, and 504 of the DOE Act are functions created by the DOE Act (rather than transferred from FEA) and, therefore, are not governed by the FEA rules of practice. Examples of functions subject to FEA rules of practice are exercise of information gathering authorities under section 14 of FEAA and section 11 of ESECA.

[3] As of September 30, 1977, FPC's authorized ceiling was 1,438 positions. On October 1, 1977, FERC began business with an authorized ceiling of 1,203 positions. FERC's present authorized ceiling is 1,361 positions.

[4] The average time from date of filing to Commission order in electric rate cases disposed of by settlement in that same fiscal year was 20 months.

[5] The FERC is installing a management information system which will use the critical path method and an automated data support system to provide on a monthly basis the current status of all assigned casework within the Commission. The new system will be able to identify significant bottlenecks within our processes which prevent the timely completion of regulatory decisions, and to determine where additional manpower and supporting resources can reduce the time required to effectively complete staff work and bring issues before the Commission for final decision. In addition, the system will become the agency's principal scheduling device—aiding top management in planning and prioritizing critical projects as well as other casework.

at the Commission's Office of Public Information, Washington, D.C. 20426 during regular business hours. The Commission and its staff will consider these written submittals before proposing a rule in this docket. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the subject should be addressed.

Although comments on all aspects of the rules of practice are solicited, specific comments and suggestions are requested on the following topics:

(1) Procedures to expedite rate setting by informal rulemaking for electric utility and natural gas pipeline wholesale rates as authorized by section 403(c) of the Department of Energy Act.

(2) Improvement in the rules governing prehearing discovery.

(3) Reduction of the steps needed to dispose of Commission proceedings.

(4) Augmentation of the powers of Administrative Law Judges to expedite proceedings and dismiss proceedings not diligently prosecuted.

(5) Revision of the Commission's *ex parte* rule to deal with the requirements of *"Home Box Office, Inc.* v. *Federal Communications,"* 567 F. 2d 9 (CADC 1977). See also, Petition of Institute for Public Interest Representation filed May 2, 1978, in FERC docket No. RM78-11.

(6) The informal Commission practice that permits the submission of incomplete filings and the processing thereof in the absence of full compliance with the regulations.

(7) The requirement of pretrial memoranda or briefs of the parties setting out the factual and legal issues to be presented at trial, and setting a limited time for the submission to the ALJ of the initial and reply briefs.

(8) The mandating of prehearing conferences in contested proceedings and setting forth the required actions of all parties thereto, such as defining the issues, outlining testimony, listing witnesses, determining procedural dates.

(9) Determining which issues, if any, are generic to many proceedings and can be determined through rulemaking or on a precedential basis in individual litigation.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24680 Filed 8-31-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Parts 620, 653, and 655]

TEMPORARY HOUSING FOR AGRICULTURAL WORKERS

Proposed Modification of Rules

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor proposes to allow for the continued application of the Employment and Training Administration (ETA) standards governing housing for agricultural workers, as republished at 43 FR 36058, with respect to certain temporary housing built prior to January 1, 1979. Qualifying housing would continue to be accepted by ETA and the Occupational Safety and Health Administration (OSHA) as in compliance with their temporary labor camp standards, so long as the housing satisfied the applicable ETA standards. Both ETA and OSHA will require housing built after January 1, 1979, to meet the standards issued by OSHA.

EFFECTIVE DATE: Comments must be received on or before October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William B. Lewis, Administrator, U.S. Employment Service, Room 8000, 601 D Street NW., Washington, D.C. 20213, telephone: 202-376-6289

SUPPLEMENTARY INFORMATION: On December 9, 1977, at 42 FR 62133 the Employment and Training Administration of the Department of Labor (ETA) rescinded its temporary agricultural housing regulations at 20 CFR Part 620 and adopted the temporary housing standards of the Occupational Safety and Health Administration of the Department of Labor (OSHA) at 29 CFR 1910.142. The purpose of rescinding the ETA regulations was to achieve a single set of housing standards for all temporary housing. As a result of this revocation of rules, some confusion has arisen concerning who may still follow the standards at 20 CFR Part 620.

In the preamble at 42 FR 62133 the Department explained that employers whose housing met ETA standards at the time of their revocation would be given until January 1, 1979, to bring their housing into compliance with the OSHA standards. The Department received a number of comments requesting clarification and extension of this provision. In response to these comments the Department is clarifying who may still follow the standards at 20 CFR Part 620 and proposing to modify its action of December 9, 1977, to account for housing built in reliance on these regulations and to allow for the beneficial use of existing housing which has been permanently approved under the variance criteria of 20 CFR 620.3.

BACKGROUND

The ETA housing standards for interstate recruitment of agricultural workers date back to 1951. (16 FR 9142). These early regulations, promulgated by the Bureau of Employment Security of the U.S. Employment Service, contained a general directive to the State employment agencies requiring that they make every effort to assure that "[h]ousing and facilities are or will be at the time of occupancy hygienic and adequate to the climatic conditions of the area of employment." 20 CFR 602.9 (b)(1) and (d).

In 1959 the Bureau of Employment Security proposed to amend its regulations to assure that housing for temporary agricultural workers conformed to applicable State or local housing codes and, in the absence of such codes, that the housing would not endanger the health or safety of the workers. The proposed revisions were reviewed by the Attorney General of the United States who found them to be consistent with the Wagner-Peyser Act, pursuant to which they were to be promulgated. 41 Op. A.G. 406, 413 (1959).

On the basis of this same rulemaking power, the Bureau of Employment Security in October 1968, adopted a new set of regulations at 20 CFR Part 620 establishing specific minimum housing standards applicable to employers utilizing the U.S. Employment Service (USES) interstate agricultural recruitment services. 33 FR 15992. The experiences of the USES indicated that despite its general housing requirements, on many occasions the employees it referred to agricultural employers had been provided with inadequate, unsafe, and unsanitary housing. In the absence of any protective Federal legislation, the Department sought to further discourage such practices by denying its interstate recruitment services to employers if their housing facilities intended for use by agricultural workers or their families failed to meet the minimum standards set forth in the regulations or a more stringent State or local law or regulation.

Two years later, on December 29, 1970, Congress passed the Occupational Safety and Health Act of 1970 (OSH Act) (Pub. L. 91-596, 84 Stat. 1590, 29 U.S.C. 651 *et seq.*), declaring as its purpose "to assure so far as possible every working man and woman in the

Nation safe and healthful working conditions and to preserve our human resources." Section 6(a) of the OSH Act directed the Secretary of Labor by rule to promulgate any "national consensus standard" and any "established Federal standard" unless such a standard would not result in improved safety or health for specifically designated employees. In the event of a conflict among such standards, the Secretary was directed to promulgate the standard which assured the greatest protection of the safety or health of the affected employees.

Pursuant to this authority and to the general rulemaking authority in section 8(g) of the OSH Act, OSHA on May 29, 1971, adopted a set of national consensus standards promulgated by the American National Standards Institute with respect to temporary labor camps. See 36 FR 10466. The new regulations at 29 CFR 1910.142, effective August 27, 1971, were applicable to agricultural employment.

As a result of the above, the Department had two different sets of standards governing temporary agricultural housing and initiated rulemaking procedures aimed at achieving a single set. In a FEDERAL REGISTER notice of January 18, 1972, at 37 FR 743, OSHA invited written comments to assist the Secretary of Labor in identifying conflicts between the ETA and OSHA regulations and in adopting a single set of standards. This notice further acknowledged that the ETA rules published in 20 CFR Part 620 were "established Federal standards" within the meaning of the OSH Act and gave notice that compliance with either the ETA or OSHA rules would be deemed to be compliance for OSHA enforcement purposes, pending publication of a uniform standard.

ETA likewise published a notice on February 4, 1972, announcing that it would incorporate in the regulations at 20 CFR Part 620 any standards developed by OSHA pursuant to the proposed rulemaking proceedings. In the interim, ETA indicated that compliance with the OSHA regulations would also be considered compliance with the ETA regulations. 37 FR 2684.

On September 23, 1974, OSHA published proposed regualtions to develop "a single Department of Labor standard for employment related housing" to be applied and enforced by all interested departmental agencies within their respective areas of authority. 39 FR 34057. Public comments were solicited and hearings on the proposed regulations were held throughout the country.

While OSHA's proposed regulations were still under consideration, ETA in a proposed rulemaking, among other things, reiterated its intention to follow the standards ultimately determined by OSHA. 41 FR 3095 (January 21, 1976). ETA's proposed rules, adopted on March 30, 1976, amended the regulations at 20 CFR Part 620 to reflect the previously published notice that housing meeting the OSHA standards would be considered as meeting the ETA standards. 41 FR 13338.

Subsequently, on May, 4, 1976, OSHA withdrew its proposal to revise its regulations. 41 FR 18430. The decision to withdraw the proposed regulations was based on a thorough review of the record from which OSHA concluded that there was not an adequate basis for the final publication of the proposed standard. In the same notice, however, OSHA reaffirmed the Department's intention to arrive at a single standard for employment related housing and invited interested parties to submit written comments. As a result of the May, 4, 1976, notice, OSHA received public comment on related issues, and a series of factfinding hearings were held in various regions throughout the country.

On January 25, 1977, at 42 FR 4670, ETA also addressed the issue of overlapping housing regulations in the course of a proposed rulemaking for the labor certification process governing the temporary employment of alien agricultural and logging workers in the United States. In pertinent part the proposed regulations at 20 CFR 655.3(a)(1) would have required that any employer seeking certification of alien workers must provide housing meeting either the ETA or OSHA standards both for domestic and foreign workers employed. A related provision at 20 CFR 655.3(a)(2) of the proposed regulations would have required that employers provide housing suitable for women and families.

Comments on the proposed regulations were invited until April 14, 1977, and public hearings were held at six locations in May and June 1977. The Department received some 62 comments concerning the employers' obligation to provide housing in the form of testimony and supplemental comments on issues raised in the proposed regulations.

It was following these rulemaking proceedings that ETA rescinded its regulations at 20 CFR Part 620. 42 FR 62133. ETA recognized that the two sets of standards had caused confusion and had placed administrative and enforcement burdens on employers, workers, State agencies, and the Department. Therefore, in keeping with the President's stated policy of eliminating unnecessary reglatory burdens, the ETA standards were deleted, effective December 9, 1977.

This deletion was subsequently acknowledged in the final regulation governing the admission of temporary alien workers in agriculture and logging published March 10, 1978, at 43 FR 10306. The regulation addressed the housing requirements by stating at 20 CFR 655.202(b)(1) the certain employers could continue to provide housing meeting the standards of 20 CFR Part 620, if applicable under the criteria set forth in the December 9, 1977, revocation of rules. For the convenience of employers who could still elect to follow these standards, ETA subsequently republished the standards in 20 CFR 620.3–620.17 (43 FR 36058).

The December 9, 1977, recision was to take full effect on January 1, 1979. However, numerous parties voiced concern that the Department's action created confusion and placed an undue burden on employers who had built or intended to build housing in the near future in reliance on past governmental certifications that such housing was maintained in a safe and healthful manner.

Therefore, to alleviate these concerns without imparing the overall safety and health protection of the affected workers, the Department proposes to modify its December 9, 1977, action with respect to housing which is built on or before January 1, 1979, in accordance with the standards at 20 CFR 620.4–620.17 and existing housing which has been permanently approved under the variance criteria of 20 CFR 620.3 pursuant to a written application submitted on or before January 1, 1979. After January 1, 1979, ETA would no longer accept applications for variances. However, the ETA guidelines for movable range housing, which had been recognized as a blanket variance under 20 CFR 620.3, would continue to apply to this type of temporary agricultural housing.

Employers who wish to utilize the interstate clearance system under the Wagner-Peyser Act must certify, in writing, that the housing provided meets or will meet prior to occupancy, applicable State standards or Federal standards (that is, either the full set of OSHA standards or the full set of ETA standards). ETA will, in addition, continue to conduct periodic, unannounced field checks pursuant to 20 CFR 653.110 to determine whether housing conditions are as specified in job orders.

Accordingly, 20 CFR, Chapter V is proposed to be amended as follows:

PART 620—HOUSING FOR AGRICULTURAL WORKERS

1. In the table of contents for Part 620, the following section headings would be added at the very beginning of the table of contents:

EXPLANATION

Sec.
620.1 Purpose and scope.
620.2 Applicability.

2. Part 620 would be amended by adding a new § 620.1 and § 620.2 at the very beginning of the part to read as follows:

§ 620.1 Purpose and scope.

(a) The Employment and Training Administration of the U.S. Department of Labor has established facilities to assist agricultural employers in recruiting workers from places outside the State of intended employment. The experiences of the Administration indicate that employees so referred have on many occasions been provided with inadequate, unsafe, and unsanitary housing conditions. To discourage this practice the Administration has established a policy of denying its interstate recruitment services to employers until the State agency affiliated with the United States Employment Service has ascertained that housing and facilities: (1) Are available; (2) are hygienic and adequate to the climatic conditions of the area of employment; (3) are large enough to accommodate the agricultural workers sought; and (4) will not endanger the lives, health or safety of workers and their families.

(b) To implement this policy, interstate recruitment services will be denied if the housing facilities intended for use by the worker or workers and their families fail to comply (1) with the full set of standards set forth at 29 CFR 1910.142, or (2) with the minimum standards set forth in this Part 620, if applicable under the criteria set forth in § 620.2.

§ 620.2 Applicability.

(a) On December 9, 1977 the Employment and Training Administration rescinded its temporary agricultural housing regulations at 20 CFR Part 620 and adopted the temporary labor camp standards of the Occupational Safety and Health Administration at 29 CFR 1910.142. The purpose of this substitution was to achieve a single set of standards for all temporary housing. However, the Department has modified its December 9, 1977 action to allow certain employers who had built housing in reliance on the standards in this Part 620, and other employers who had timely sought and received a permanent variance from these standards with respect to existing housing, to continue to follow the regulations at 20 CFR 620.3-620.17.

(b) To effectuate these continued applications of this Part 620, (1) temporary agricultural housing built prior to January 1, 1979 which conforms to the standards set forth at 20 CFR 620.4-620.17, or (2) existing temporary agricultural housing which has been permanently approved under the variance criteria of 20 CFR 620.3 pursuant to a written application submitted by January 1, 1979, shall be accepted by the Occupational Safety and Health Administration as in compliance with its temporary labor camp standards at 29 CFR 1910.142, so long as the housing satisfies the applicable standards or variance conditions.

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

§ 653.108 [Amended]

3. In paragraph (c)(6), the following parenthetical phrase and exceptive clause would be added immediately following the citation "29 CFR 1910.142:" (or the standards of 20 CFR Part 620, if applicable under the criteria set forth in 20 CFR 620.2), except that range housing for sheepherders shall meet existing Departmental guidelines.

4. In paragraph (d)(2), the following parenthetical phrase and exceptive clause would be added immediately following the citation "29 CFR 1910.142:" (or the standards of 20 CFR Part 620, if applicable under the criteria set forth in 20 CFR 620.2), except that range housing for sheepherders shall meet existing Departmental guidelines.

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

§ 655.202 [Amended]

5. In paragraph (b)(1), the parenthetical phrase immediately following the citation "29 CFR 1910.142" would be changed to: (or the standards of 20 CFR Part 620, if applicable under the criteria set forth in 20 CFR 620.2); and the exceptive clause immediately following the parenthetical would be changed to read: Except that range housing for sheepherders shall meet existing Departmental guidelines.

Signed at Washington, D.C., this 24th day of August 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-24752 Filed 8-31-78; 8:45 am]

[1505-1]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 145]

[Docket No. 78N-0138]

CANNED FRUITS

Standard of Quality for Canned Pears

Correction

In FR Doc. 78-20383 appearing at page 32143 in the issue for Tuesday, July 25, 1978, make the following corrections:

1. On page 32144, second column, sixth line of 2.3.7(a), "FAC" should read "FAO".

2. On page 32147, third column, fourth line from the bottom, "14" should read "13".

3. On page 32149, second column, (b)(1)(xi) of § 145.175 should read as follows:

"(xi) *Seeds in all styles except whole uncored style.* Not more than 3.5 seeds or the equivalent in pieces of seeds per kilogram (35.3 ounces) of net weight. Seeds included as 'core material' shall not be counted a second time."

[4110-03]

Food and Drug Administration

[21 CFR Parts 310 and 314]

[Docket No. 78N-0093]

ABBREVIATED NEW DRUG APPLICATIONS

Proposed Related Drug Amendments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the new drug regulations to specify that when the abbreviated form of a new drug application is considered appropriate, such finding would apply only to drug products identical to the product that was the subject of the finding. The amendments are needed because some manufacturers, misunderstanding current regulations, continue to submit abbreviated applications for products clearly not subject to such a finding. The proposed amendments would also establish a petition procedure for prospective applicants to request a determination of the acceptability of an abbreviated application for similar or related products.

DATE: Written comments by October 11, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Room 4-65,

5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Jean Mansur, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3640.

SUPPLEMENTARY INFORMATION: The drug efficacy study implementation (DESI) program was initiated to evaluate the effectiveness of drugs cleared through the new drug procedures between 1938 and 1962. During this period, the Federal Food, Drug, and Cosmetic Act (the act) did not require new drug applications (NDA's) to contain data supporting the effectiveness of a drug for its recommended uses. At that time approval of a new drug was based on evidence that the drug was safe. The Drug Amendments of 1962 amended the act to require not only proof of safety but also evidence substantiating the effectiveness of a drug prior to approval for commercial distribution. Under the 1962 amendments the Food and Drug Administration (FDA) was required to evaluate the effectiveness of drugs previously approved on the basis of safety. The DESI program was established to carry out this mandate. As part of the DESI program, the National Academy of Sciences-National Research Council assembled panels of experts to assist FDA in this review. To implement the efficacy findings, FDA has been publishing DESI notices stating the agency's conclusions about a drug, i.e., whether a drug is effective and, if so, its indication for use and conditions for marketing. These conditions have often permitted submission of abbreviated new drug applications (ANDA's).

ANDA Background

A policy was adopted at the outset of the implementation phase of the DESI program to establish the concept of ANDA's. This policy was announced at a public meeting held on January 23, 1968, and reported in March 1968 in the FDA papers. Implicit in this policy decision was the recognition that the marketing history of these pre-1962 drugs, published studies and reports, and the experts' reviews and analyses, all taken together, constituted a body of information sufficient, in the case of most DESI drugs determined to be effective, to conclude that the same drug product produced by another manufacturer would also be safe and effective if properly manufactured and used under the same conditions. This policy allows any manufacturer to market duplicates of these pre-1962 drug products after showing that such a product will be properly manufactured, adequately labeled, and, if necessary, bioavailable. New studies to prove safety and effectiveness are not required. New applications are deemed to include, by reference, safety and effectiveness data that have already been reviewed and found adequate. This procedure eliminates unnecessary animal and human experimentation, eases the burden on manufacturers attempting to market duplicates of established drugs, reduces the demands on overloaded and scarce clinical testing resources, and facilities reviewing and processing applications by FDA.

The abbreviated new drug application concept was implemented by revising the new drug regulation under § 314.1 (21 CFR 314.1) to provide for the submission of ANDA's when FDA has determined that an ANDA is sufficient for a drug. Notices published on most of the DESI-effective drugs have specified that, in the future, ANDA's would be the appropriate form of application.

Applicability of a Finding That an ANDA Is Appropriate

In a number of instances, firms have submitted ANDA's for products that vary in some aspect from the DESI product, e.g., dosage form, amount of active ingredient(s), the salt or ester form of the drug entity, or variations in the active ingredient itself. Some of these products are so closely related to the DESI drug product that qualified experts could reasonably be expected to conclude that the available information supporting the safety and effectiveness of the DESI drug would also apply to the related drug. Abbreviated new drug applications are readily concluded to be appropriate for such products, and the agency had accepted and approved these in the past. One example is a drug product different from the DESI product only in that one was a capsule and the other a tablet; there was no other significant variation, i.e., the identity and amount of active ingredient were identical, the conditions of use were the same, and the different dosage form did not pose new questions of safety or effectiveness.

Other variations, however, may pose significant questions of safety or effectiveness or both. For example, an ANDA has been submitted for a combination product that was not included in the DESI study. This combination drug product is purported to be eligible for an ANDA because FDA had determined that one of the ingredients, as a single-entity product, was appropriate for ANDA's. Another example of a variation that poses a question of safety or effectiveness is a controlled drug, i.e., a drug subject to the Controlled Substances Act, in a proposed dosage form that offers or suggests an increased potential for abuse. There are numerous other examples of ANDA's submitted for drug products clearly not within the scope of a finding that an ANDA is sufficient.

Questions of Safety or Effectiveness

When a similar or related product (hereafter, "related") poses a question of safety or effectiveness, a new finding must be made. In some cases, e.g., certain dosage form differences, bioavailability data may serve to answer the question and allow a finding that ANDA's, including bioavailability data, are appropriate for the related product. If the question is such that qualified experts cannot reasonably be expected to conclude that the safety and effectiveness conclusions on the DESI drug product can be extrapolated to the related drug product, then a full new drug application containing data in support of its safety or effectiveness or both is the kind of application required.

FDA Findings

The ANDA is an exception to the requirement that an NDA must contain the data or specific reference (and authorization for reference, if necessary) to the data relied on in support of safety and effectiveness; therefore, the decision to allow use of an ANDA must be consciously and prospectively made by the agency. Section 314.1(a) authorizes use of an ANDA only "* * * if the drug * * * is one for which an abbreviated new drug application *has been found* by the Food and Drug Administration to be sufficient * * *." (Emphasis added.) It was never the intent of FDA that a drug firm make the initial decision that an ANDA would be the appropriate form of application for a drug product and submit an ANDA without any consultation with or inquiry of the agency. Both the related drug policy in § 310.6 (21 CFR 310.6) and DESI notices invite inquiries and consultation.

The findings made by FDA are formal and are officially issued, generally by a notice in the Federal Register but on occasion by other public notice. The findings cannot extend to products for which little or no information is available and which have not been considered by FDA in making an ANDA decision on another product. While the finding may appropriately be extended to a related product, it cannot automatically be extended because the different condition, whatever it is, may affect the safety or the effectiveness of the related product or at least raise a question about safety or effectiveness that cannot be answered without additional data; some-

times studies performed on the particular related product are necessary.

PROPOSAL TO REVISE ANDA REGULATIONS

Because applicants continue to submit ANDA's for products clearly not subject to the finding in a DESI notice that an ANDA is appropriate, the Commissioner believes it is necessary to revise the regulations to limit a finding of ANDA acceptability to a product that is identical to the DESI drug product, or other drug product, that is the subject of the finding. The proposed revision will also establish the petition procedure as the mechanism for prospective applicants to seek a determination about ANDA acceptability for a related drug. An application submitted in the form of an ANDA for a product not previously the subject of a finding that an ANDA is appropriate will be considered as a petition for that determination and processed as such under § 10.30 (21 CFR 10.30).

Upon promulgation of the final regulation FDA will publish a notice amending all prior DESI notices that contain a finding of ANDA acceptability. The amendment will limit the finding specifically to drug products that are identical to either the DESI drug product that was the subject of the notice or a related product for which an ANDA has already been accepted.

The Commissioner advises that a notice was published in the FEDERAL REGISTER on June 20, 1975 (40 FR 26156) proposing to revise the requirements for information in ANDA's now set forth in § 314.1(f) (21 CFR 314.1(f)). Final action on this proposal has been delayed to permit its reconsideration in light of changes made in other policies proposed in other notices published in the FEDERAL REGISTER on the same date (see 40 FR 26142). The Commissioner intends to issue a final order amending § 314.1(f) simultaneously with final action on the proposal set forth in this notice. At that time, 314.1(f) as revised will be redesignated as section 314.3(f). At that time, the Commissioner may also propose additional changes in the ANDA information requirements that may be appropriate because of changes in other policies proposed in 1975.

POST-1962 DRUGS

The previous discussion explains the origin of the ANDA concept and the rationale for its application to the pre-1962 DESI drug products. the Commissioner intends to extend the ANDA concept at a later time to post-1962 drug products by publishing criteria for making such a determination about these drugs.

RELATED DRUG POLICY

The Commissioner finds that some drug manufacturers have apparently misunderstood the related drug policy as defined in § 310.6. He will attempt to clarify certain points by this discussion and by amending § 310.6. While a related drug may be subject to certain parts of a DESI notice, it is not necessarily subject to all provisions of the DESI notice. For example, a related drug may be subject to the finding that an approved new drug application is required for marketing and not be subject to the finding that the application may be an abbreviated application, for reasons already discussed.

A combination drug may be affected by a finding that one of the ingredients in it lacks substantial evidence of effectiveness. If an ingredient is not effective when used as a single-entity drug for treatment of a particular condition, it would generally not be considered (without evidence to the contrary) to contribute to the effectiveness of a combination product in treating that condition. In contrast, a combination drug containing as one of its components an ingredient determined to be effective cannot rest solely on that finding for a determination that the combination is effective.

Although the DESI notices are primarily concerned with decisions about the effectiveness of drugs, they cannot, and they do not, disregard safety issues. A determination that an ANDA is appropriate for a related product requires a finding that both the effectiveness decision on the DESI product and the finding of safety are applicable to the related product.

Thus, to clarify the related drug policy, the Commissioner proposes to amend both the statement of that policy in § 310.6 and the regulatiuons in part 314 that provide for ANDA's. He also proposes to amend § 314.110 (21 CFR 314.110) to incorporate the provision for handling an ANDA as a petition when it covers a product for which there has been no finding that an ANDA is appropriate.

The comment period for these proposed changes is 40 days. Due to the continuing submission of ANDA's for drug products clearly not subject to a finding of ANDA acceptability, the Commissioner advises that the need for procedures to address the problems described above is immediate. He believes that 40 days will allow adequate time for interested persons to comment.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)), and agency consideration to prepare an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that parts 310 and 314 be amended as follows:

1. In § 310.6 by revising the penultimate sentence of paragraph (a) and paragraphs (b) and (c) to read as follows:

§ 310.6 Applicability of drug efficacy study implementation notices and notices of opportunity for hearing to identical, related, and similar drug products.

(a) * * * However, it is essential that the findings and conclusions that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective be applied to all identical, related, and similar drug products to which they are reasonably applicable. * * *

(b) An identical, related, or similar drug includes other brands, potencies, dosage forms, salts, and esters of the same drug moiety as well as of any drug moiety related in chemical structure or known pharmacological properties. Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings and conclusions, stated in a drug efficacy notice or notice of opportunity for hearing, that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective are applicable to an identical, related, or similar drug product, such product is affected by the notice. A combination drug product containing an identical, related, or similar drug may also be subject to the findings and conclusions in a notice that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective. However, a finding that a single active entity drug is safe and effective is not a basis for determining that a combination drug product containing that entity as one of its ingredients is also safe and effective or that it meets all the requirements for combination drugs as described in § 300.50 of this chapter. Any person may request an opinion on the applicability of such a notice to a specific product by writing to the Food and Drug Administration at the address shown in paragraph (e) of this section.

(c) Manufacturers and distributors of drugs should review their products as drug efficacy notices are published and assure that identical, related, or similar products comply with all applicable provisions of the notices.

* * * * *

2. In part 314:

a. By revising the first sentence of § 314.1(a)(1) to read as follows:

§ 314.1 Applications.

(a)(1) Applications to be filed under section 505(b) of the act shall be submitted in the form described in paragraph (c) of this section or optionally in the form described in paragraph (d) of this section and assembled as required by paragraph (e) of this section; if the drug is one for which an abbreviated new drug application has been found by the Food and Drug Administration to be sufficient, the application may be limited to the information described in § 314.3 unless otherwise specified in such finding. * * *

* * * * *

b. By redesignating § 314.1(f) as § 314.3, and revising it to read as follows:

§ 314.3 Abbreviated applications.

(a) The Commissioner of Food and Drugs has determined that many drug products covered by the drug efficacy study may be approved for marketing without the submission of additional evidence of preclinical and clinical studies to show safety and effectiveness. When such a determination has been made for a drug product, an abbreviated form of a new drug application is sufficient for that product.

(b) A finding by the Commissioner of Food and Drugs that an abbreviated new drug application is appropriate for a drug product is limited to products that are the same in dosage form, route of administration, kind and amount of active ingredient, indication(s), and any other conditions of use as the drug product that was the subject of the finding. A determination that an abbreviated new drug application is the appropriate form of application for a drug product does not apply to a similar or related drug product unless the notice of that finding specifies that it applies to a particular similar or related product and that product is described.

(c) A prospective applicant may seek a determination of the acceptability of an abbreviated new drug application for a product that the applicant believes similar or related to a drug product that has been declared to be eligible for abbreviated new drug application submissions. Extension of the finding that a drug product is safe and effective to another product will ordinarily be limited to other dosage forms for the same route of administration or to closely related ingredients. If preclinical or clinical evidence is needed to support the safety, or if clinical evidence is needed to support the effectiveness, of the proposed product, then an abbreviated new drug application is not appropriate for the similar or related drug product.

(d) A person seeking a determination that an abbreviated new drug application is appropriate for a similar or related drug product shall use the procedures established in § 10.30 of this chapter. The petitioner shall set forth the reasons that justify extending the finding that an abbreviated new drug application is appropriate for one product to the similar or related product proposed to be marketed.

(e) A new drug application submitted in the form of an abbreviated new drug application for a drug product that has not been the subject of a finding that allows an abbreviated application for the product will be considered to be a petition under § 10.30 of this chapter and will be processed as such.

c. By adding to § 314.110 new paragraph (f) to read as follows:

§ 314.110 Reasons for refusing to file applications.

* * * * *

(f) An application submitted in the form of an abbreviated new drug application in the absence of a prior finding that the abbreviated form of a new drug application is appropriate for the drug product, as required by § 314.3, will not be accepted as an application within the meaning of section 505(b) of the act. It will be considered as a petition, under § 10.30 of this chapter, for a determination on the acceptability of abbreviated new drug applications for the product.

Interested persons may, on or before October 11, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this doucment. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 22, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-24472 Filed 8-31-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4457]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Merced, Merced County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Merced, Merced County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 561 West 18th Street, Merced, Calif. Send comments to: Mr. Allann Schell, City Manager, City of Merced, P.O. Box 2068, Merced, Calif. 95340.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Merced, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are re-

quired. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bear Creek	U.S. Highway 99—50 ft*.	163
	Southern Pacific RR spur—30 ft*.	165
	Atchison, Topeka & Santa Fe Ry bridge—30 ft*.	169
	R Street Bridge—30 ft*	171
	M Street Bridge—30 ft*	173
	G Street Bridge—20 ft*	175
Sheet flow area	Intersection of West 11th St and J St.	1
	Intersection of Hawk Dr and Heron Way.	1
	Intersection of Lopez Ave and Sydney Lane.	1
	Intersection of West 7th St and T St.	1
	Intersection of West 20th St and U St.	1
	Intersection of East 26th St and Glen Ave.	1
	Intersection of West 18th St and J St.	1
	Intersection of West 26th St and K St.	2
	Intersection of East 26th St and 2nd Ave.	2
	Intersection of Villa Dr and East 27th St.	2
	Intersection of East 26th St and Hawthorn Ave.	2
Do	Intersection of East 27th St and Parsons Ave.	1
	Intersection of Gerard Ave and Brimmer Rd.	1
	Intersection of Ellen Ave and Merced Ave.	1
	Intersection of Rose Ave and Merced Ave.	1
	Intersection of Yosemite Park Way and Kelly Ave.	1
	Intersection of Driftwood Dr and Crystal Spring Ave.	1
Ponding area	Intersection of West 19th St and T St.	165
	Intersection of West 16th St and Q St.	165
	Intersection of West 25th St and L St.	172
	Intersection of West 25th St and U St.	172
Do	Intersection of Pierre Ct and Loughborough Dr.	166
Do	Intersection of Bismark Dr and Sacramento Dr.	165
	Intersection of Conestoga Dr and Sacramento Dr.	165
Do	South of Atchison, Topeka & Santa Fe Ry bridge over Black Rascal Creek, and west of Snelling Highway.	161
	South of Black Rascal Creek and north of Bear Creek.	161
	Southeast of intersection of Snelling Highway and Atchison, Topeka & Santa Fe Ry.	162

* Upstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24107 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4458]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for City of Fort Collins, Larimer County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Fort Collins, Larimer County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 300 Laporte Avenue, Fort Collins, Colo. Send comments to: Honorable Richard Suinn, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, Colo. 80522.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Fort Collins, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek	Prospect Rd.—80 ft*	4,905
	Prospect Rd.—80 ft**	4,909
	11th St.—40 ft*	4,911
	11th St.—40 ft**	4,914
	1st crossing Colorado & Southern RR—20 ft**.	4,917
	Welch St.—120 ft*	4,930
	Welch St.—30 ft**	4,937
	LeMay St.—40 ft**	4,949
	Stover St.—80 ft**	4,967
	College Ave.—100 ft*	4,982
	College Ave.—50 ft**	4,988
	Shields St.—40 ft**	5,015
	Drake Rd.—80 ft*	5,053
	Drake Rd.—40 ft**	5,056
Spring Creek Overflow.	800 ft upstream confluence with Cache La Poudre River.	4,893
	300 ft downstream divergence from Spring Creek.	4,906
Cache La Poudre River.	Prospect Rd.—20 ft**	4,894
	College Ave.—100 ft**	4,967

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Creek	College Ave.—100 ft**	4,974
	Wilcox Lane—100 ft**	4,984

*Downstream of centerline.
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24108 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4459]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Glenwood Springs, Garfield County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Glenwood Springs, Garfield County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Office of City Planner, 806 Cooper, Glenwood Springs, Colo. Send comments to: Hon. Ashton Durrett, Mayor, City of Glenwood Springs, City Hall, 806 Cooper, Glenwood Springs, Colo. 81601.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Glenwood Springs, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Colorado River	Bridge for access road to railroad yards—100 ft*.	5,721
	Grand Avenue Bridge—80 ft*.	5,734
	Pipes—80 ft*	5,741
Roaring Fork River.	Denver & Rio Grande Western RR. bridge—80 ft*.	5,726
	7th Street Bridge—40 ft*.	5,729
	27th Street Bridge—80 ft**.	5,770
	27 Street Bridge—80 ft*	5,777
	80 ft upstream of the confluence with Three Mile Creek.	5,792

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24109 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4460]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Greeley, Weld County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Greeley, Weld County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 919 Seventh Street, Greeley, Colo. Send comments to: Hon. George W. Hall, Mayor, City of Greeley, City Hall, 919 Seventh Street, Greeley, Colo. 80631.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Greeley, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cache La Poudre River.	5th St (upstream side)	4,641
	Union Pacific Railroad	4,645
	11th Ave (upstream side).	4,648

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24110 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4461]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Chicago Heights, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Chicago Heights, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Chicago Heights City Hall, 1601 Chicago Road, Chicago Heights, Ill. 60411. Send comments to: Hon. Charles Panici, Mayor of Chicago Heights, Chicago Heights City Hall, 1601 Chicago Road, Chicago Heights, Ill. 60411.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Chicago Heights, Cook County, Ill. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Thorn Creek	Confluence with Tributary C north of Joe Orr Rd.	625
	Downstream corporate limit at Joe Orr Rd.	630
	Halsted Rd	639
	Chicago Rd	647
	14th St	650
	15th St	652
	16th St	654
	Penn Central	658
	E.J. & E. RR	663
	Chicago Heights corporate limits at spillway for Sauk Lake.	665
Tributary "B" of Thorn Creek at Route 1 cutoff.	Confluence with Thorn Creek.	640
	State Route 1 (one)	640
	Reigle Rd	646
	Dixie Highway	649
	10th St	652
	Meadow Lane	654
Butterfield Creek	Kuechler Ave. Extended	632
	Ashland Ave. Extended	634

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24111 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4462]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Washington Park, St. Clair County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Washington Park, St. Clair County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 5621 Forest Boulevard, East St. Louis, Ill. Send comments to: The Honorable Ralph L. Franklin, Mayor, Village of Washington Park, 5621 Forest Boulevard, East St. Louis, Ill. 62201.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Washington Park, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schoenberger Creek.	Downstream corporate limits.	410
	740 ft downstream of Kingshighway.	411
Rainfall ponding within community.	500 ft north of U.S. Route 50 crossing Louisville & Nashville RR.	414
	Intersection of Monk Ave. and 38th St.	415
	100 ft southeast of intersection of Lousiville & Nashville RR. and Alton & Southern RR.	415
	100 ft southwest of intersection of Louisville & Nashville RR. and Alton & Southern RR.	416
	500 ft northwest of Kingshighway crossing Louisville & Nashville RR.	417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24112 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4463]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Charlestown, Clark County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Charlestown, Clark County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Charlestown City Hall, 701 Main Street, Charlestown, Ind. 47111. Send comments to: Hon. Clay Hall, Mayor of Charlestown, Charlestown City Hall, 701 Main Street, Charlestown, Ind. 47111.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Charlestown, Clark County, Ind. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pleasant Run.....	Corporate limits (downstream).	543
	Spring St.....	566
	Reed St (downstream	573
	Reed St (upstream).....	578
	Monroe St.....	594
	Corporate limits (upstream).	603

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24113 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4464]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Scandia, Republic County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Scandia, Republic County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Scandia, Kans. Send comments to: Mayor Earl L. Melby, Scandia, Kans. 66966.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Scandia, Republic County, Kans., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Republican River..	At 1st St. (extended).....	1,434
	3d St. (extended).....	1,435
	Approximately 300 ft downstream of U.S. Highway 36.	1,436

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24114 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4462]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Medfield, Norfolk County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Medfield, Norfolk County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Medfield, Mass. Send comments to: Mr. Michael Sullivan, Executive Secretary, Town of Medfield, Town Hall, Medfield, Mass. 02052.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Medfield, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Charles River.....	First crossing ConRail—50 ft *.	123
	Main St—50 ft *	124
	Orchard St—100 ft *.....	125
Vine Brook.....	Private road—20 ft *.....	132
	Main St (State Route 109)—40 ft *.	135
	Cemetery Rd—20 ft *.....	145
	State Route 27—60 ft *...	152
	ConRail—60 ft *.....	167
	North St—80 ft *.....	173
	Private drive—20 ft *.....	176

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24115 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4466]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Millbury, Worcester County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Millbury, Worcester County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Office Building, 127 Elm Street, Millbury, Mass. Send comments to: Mr. John S. Donnelly, Jr., Chairman, Board of Selectmen, Municipal Office Building, 127 Elm Street, Millbury, Mass. 01527, Attention: Cynthia K. Burr, Administrative Assistant.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Millbury, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blackstone River...	Cross St.—20 ft*	341
	Riverlin Street Bridge—40 ft*.	356
	Route 122A Bridge—40 ft**.	357
	Route 122A Bridge—30 ft*.	361
	South Main Street Bridge—60 ft**.	373
	South Main Street Bridge—80 ft*.	377
	First crossing ConRail Bridge—80 ft**.	389
	First crossing ConRail Bridge—80 ft*.	394
	West Main Street Bridge—80 ft*.	397
	Worcester Providence Turnpike—Route 146 Bridge—80 ft*.	410
	U.S. Route 20 Bridge—80 ft*.	414
Singletary Brook...	Sycamore Street Bridge—80 ft*.	386
	Rhodes Street Bridge—80 ft**.	389
	Rhodes Street Bridge—40 ft*.	412
	Second dam upstream of confluence with Blackstone River—70 ft**.	417
	Second dam upstream of confluence with Blackstone River—10 ft*.	430
	Third dam upstream of confluence with Blackstone River—35 ft**.	440
	Third dam upstream of confluence with Blackstone River—10 ft*.	453
	Fourth dam upstream of confluence with Blackstone River—30 ft**.	464
	Fourth dam upstream of confluence with Blackstone River—20 ft*.	474
	Burbank Street Bridge—10 ft*.	477
	At Mayo Pond	497
Unnamed Tributary to Mayo Pond.	Laurel Dr.—20 ft	522
	Unnamed road—100 ft*	526
Ramsborn Brook...	Dam located 1,025 ft downstream of Carleton Street Bridge—40 ft**.	531
	Dam located 1,205 ft downstream of Carleton Street Bridge—20 ft*.	548
	Carleton Street Bridge—80 ft*.	561
	West Main Road Bridge—100 ft**.	573
	West Main Road Bridge—100 ft*.	580
	Dam located 1,040 ft upstream of West Main Road Bridge—100 ft**.	589
	Dam located 1,040 ft upstream of West Main Road Bridge—100 ft*.	603
	Dolan Rd.—100 ft**	614
Dorothy Brook.....	Grafton Street Bridge—20 ft*.	354

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24116 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4467]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Whitefish, Flathead County, Mont.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Whitefish, Flathead County, Mont. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of

the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Third and Flathead, Whitefish, Mont. Send comments to: Hon. Charles Garretson, Mayor, City of Whitefish, City Hall, Third and Flathead, Whitefish, Mont. 59937.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Whitefish, Mont., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Whitefish Lake	Areas adjacent to shore	3,000
Whitefish River	Spokane Ave—100 ft*	2,998
	Baker Ave—50 ft*	2,999
	Second St—50 ft*	3,000
	Burlington Northern RR—50 ft*.	3,000

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24117 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4468]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Bradley Beach, Monmouth County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Bradley Beach, Monmouth County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Bradley Beach, N.J. Send comments to: Hon. D. Phillip Gerand, Mayor of Bradley Beach, 701 Main Street, Bradley Beach, N.J. 07720.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Bradley Beach, Monmouth County, N.J. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Entire shoreline	9
Fletcher Lake	do	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

Issued: August 17, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-24118 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4469]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of New Brunswick, Middlesex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of New Brunswick, Middlesex County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, New Brunswick, N.J. Send comments to: Hon. Richard J. Mulligan, Mayor of New Brunswick, 78 Bayard Street, New Brunswick, N.J. 08903.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of New Brunswick, Middlesex County, N.J. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raritan River	New Jersey Turnpike	12
	College Bridge	12
	Route 18	15
	Landing Bridge	17
Lawrence Brook	New Jersey Turnpike	12
	Route 18	22
Mile Run	Franklin Blvd	21
	Somerset St. (downstream).	45
	Somerset St. (upstream)	49
	Jersey Ave	53
	Cemetery Rd (downstream).	74
	Cemetery Rd (upstream).	77
Tributary to Mile Run.	Reed St	70
	Jersey Ave	83
	Triangle Rd	85

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued: August 17, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-24119 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4470]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Westampton, Burlington County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Westampton, Burlington County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, Mt. Holly-Rancocas Road, Mt. Holly, N.J. Send comments to: Honorable Marilyn J. Rand, Mayor, Township of Westampton, Township Hall, Mt. Holly-Rancocas Road, Mt. Holly, N.J. 08060.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Westampton, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rancocas Creek	Bridge St, 50 ft *	11
	New Jersey Turnpike, 50 ft *.	11
North Branch Rancocas Creek.	Mount Holly bypass, 100 ft **.	11
Mill Creek	Rancocas-Springside Rd, 100 ft *.	32
	I-295, 80 ft **	37
Tributary to Mill Creek.	300 feet upstream of confluence with Mill Creek.	33
	Woodlane Rd, 100 ft **	49
Tributary to Assiscunk Creek.	Oxmead Rd, 20 ft *	42

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24120 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4471]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the city of Seaside, Clatsop County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Seaside, Clatsop County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 851 Broadway, Seaside, Oreg. Send comments to: Hon. Joyce C. Williams, Mayor, City of Seaside, City Hall, 851 Broadway, Seaside, Oreg. 97138.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Seaside, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pacific Ocean	At shoreline near Avenue N.	20
	At shoreline near 11th Ave.	20
	At intersection of South Columbia Street and Avenue U (shallow flooding).	[1]1
	At intersection of South Beach Dr. and Avenue N (shallow flooding).	[1]1
Necanicum River	12th Ave., 20 ft [2]	11
	Avenue A, 20 ft [2]	12
	Avenue U, 20 ft [2]	14
	Farm Bridge, 20 ft [2]	18
Neawanna Creek	Mill Creek Tidegate, 50 ft [2].	11
	Abandoned railroad grade, 50 ft [2].	12
	Near Avenue R	13
Circle Creek	2,000 feet upstream of confluence with Necanicum River.	16
	Rippet Rd., 100 feet [3]	29

[1] Depth in ft.
[2] Upstream of centerline.
[3] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24121 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4472]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Burrilville, Providence County, R.I.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Burrilville, Providence County, R.I. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Burrilville Town Hall, Harrisville, R.I. 02830. Send comments to: Mr. Richard Hudson, President of the Town Council of Burrilville, Harrisville, R.I. 02830.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Burrilville, Providence County, R.I., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Branch River	Downstream corporate limits.	255
	Victory Highway (downstream).	260
	Victory Highway (upstream).	268
	Nasonville Dam (downstream).	270
	Nasonville Dam (upstream).	273
	Mohegan Dam (downstream).	277
	Mohegan Dam (upstream).	284
	Glendale Dam (upstream).	299
	State Route 102 (bridge)	300
	Victory Highway (upstream).	301
	Oakland Dam (downstream).	305
	Oakland Dam (upstream).	308
	Confluence of Clear River.	310
Clear River	Victory Highway (downstream).	311
	Victory Highway (upstream).	314
	State Route 102 (bridge)	315
	Sweets Hill Rd (downstream).	323
	Sweets Hill Rd (upstream).	326
	Harrisville Dam (downstream).	326
	Harrisville Dam (upstream).	335
	Sherman Rd	338
	School St	341
	State Route 107	345
	Railroad Ave	348
	State Route 107 (downstream).	362
	State Route 107 (upstream).	366
	Confluence of Pascoag River.	366
	Centennial St	368
	Premier Worsted Dam (approximately 350 ft downstream).	369
	Premier Worsted Dam (upstream).	375
	Green's Shoddy Mill Dam (downstream).	381
	Green's Shoddy Mill Dam (upstream).	392
	North Rd	395
	Laurel Ridge Ave	407
	Pendercast Dam (approximately 300 ft downstream).	413
	Pendercast Dam (upstream).	423
	Warner Lane	427
	East Wallum Lake Rd (downstream).	442
Hepachet River	Confluence with Branch River.	310
	Mapleville Dam (approximately 250 ft downstream).	313
	Mapleville Dam (upstream).	319
	Cooperhill Rd	320
	Gilleran Mill Dam (approximately 300 ft downstream).	325
	Gilleran Mill Dam (upstream).	338
	Gazza Rd	340
Pascoag River	Confluence with Clear River..	366
	Grove St	367
	Dam 1,500 ft upstream from Grove St. (approximately 100 ft downstream).	389
	Dam 1,500 ft upstream from Grove St (upstream).	403
	State Route 107	408
	Dam 200 ft upstream from State Route 107 (approximately 100 ft downstream).	408
	Dam 200 ft upstream from State Route 107 (upstream).	415
	State Route 107 (upstream).	417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24122 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4473]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Hamilton County, Tenn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Hamilton County, Tenn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Hamilton County Courthouse, Chattanooga, Tenn. Send comments to: Hon. Don Moore, Jr., Hamilton County Judge, Hamilton County Courthouse, Chattanooga, Tenn. 37402.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Hamilton County, Tenn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tennessee River	Downstream county boundary.	648
	Confluence of Wolftever Creek.	686

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Confluence of Soddy Creek.	687
	Confluence of Sale Creek.	687
Possum Creek	Confluence of Tennessee River.	684
	McGill Rd	701
	U.S. Highway 27 (upstream).	708
	Southern Ry	732
	Back Valley Rd	735
Sale Creek	Dougherty Rd	689
	U.S. Route 27	695
	Old Dayton Pike	704
Rock Creek	Confluence with Sale Creek.	690
	U.S. Route 27 (downstream).	720
	U.S. Route 27 (upstream).	726
	Southern Ry	742
	Slab Town Rd	772
Wolftever Creek	Confluence with Tennessee River.	686
	Short Tail Springs Rd	689
	Bell Mill Dam	718
	Hunter Rd	744
	Interstate 75	747
	Ooltewah-Harrison Rd	755
	Tucker Rd	785
Chestnut Creek	Downstream corporate limits.	811
	Bauxite Rd	823
	East Brainerd Rd	831
Lookout Creek	Dixie Highway	656
	Upstream corporate limits.	658
Wilkerson Branch.	Downstream corporate limits.	817
Do	Boy Scout Rd	672
North Chickamauga Creek.	Southern Ry	674

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24123 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4474]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Dungannon, Scott County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Dungannon, Scott County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Dungannon Town Hall, Dungannon Va. 24245. Send comments to: Hon. Jack Collins, Mayor of Dungannon, Dungannon, Va. 24245.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Dungannon, Scott County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clinch River	Downstream State route 65.	1,305
	Upstream State route 65	1,308
	0.31 miles upstream route 65.	1,312
	0.65 miles upstream route 65.	1,318

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: Augest 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24124 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4475]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Prince George County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Prince George County, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Prince George County Courthouse, Prince George, Va. 23875. Send comments to: Richard L. Hedrick, Administrator of Prince George County, P.O. Box 68, Prince George, Va. 23875.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Prince George County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Appomattox River	Prince George County and Hopewell city line.	8
	USGS Gaging Station (river mile 8.67).	11
	Petersburg City, Chesterfield County, and Prince George County line.	12
Bailey Creek	Virginia Routes 10 and 156.	8
	Confluence of Cattail Creek.	10
	Virginia Route 156	13
	Confluence of Manchester Run.	14
	Confluence of Southerly Run.	35
	Virginia Route 630	53
Blackwater Swamp.	Virginia Route 156	102
	Virginia Route 106	113
	Virginia Route 630	113
	Virginia Route 603	119
Chappell Creek	Virginia Route 10	16
	Earthen dam	18
Jones Hole Swamp	Virginia Route 638	88
	Interstate Route 95 (and U.S. Route 301).	110
	Virginia Route 621	110
	Earthen dam	120
	Virginia Route 605	120
	Corporate limits	121
Manchester Run	Confluence with Bailey Creek.	14
	Virginia Route 156	30
Powell Creek	Confluence with Walls Run.	11
	Virginia Route 10	13
Southerly Run	Confluence with Bailey Creek.	35
	Virginia Route 646	48
Walls Run	Confluence with Powell Creek.	11
	Virginia Route 641	13
	Virginia Route 10	16
Wards Creek	Virginia Route 10	25

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24125 Filed 8-31-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4476]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Blaine, Whatcom County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Blaine, Whatcome County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Blaine, Wash. Send comments to: Hon. Amos Pine, Mayor, City of Blaine, P.O. Box 490, Blaine, Wash. 98230.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Blaine, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Semiahmoo Bay	At northwest shore Semiahmoo Spit.	8
Drayton Harbor	Along Shoreline	8
Dakota Creek	At Pearce Portal Dr	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24126 Filed 8-31-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 31, 301]

[LR-251-76]

INCOME TAX

Expenses for Household and Dependent Care Services Necessary for Gainful Employment

AGNECY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the expenses for household and dependent care services necessary for gainful employment. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations clarify the circumstances under which a credit will be available for expenses for household and dependent care services.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 31, 1978. The amendments are proposed to be effective in the case of taxable years beginning after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-6618.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 44A, 213, 214, 3402, and 6096 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 504 of the Tax Reform Act of 1976 (90 Stat. 1563) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Certain provisions of the proposed regulations under section 44A are based on existing regulations under section 214 which has been repealed by the Tax Reform Act of 1976. The regulations under section 44A would retain many of the basic rules applicable for determinations under former section 214.

In General

The Tax Reform Act of 1976 allows taxpayers to claim a credit against tax for certain household and dependent care expenses. The credit is 20 percent of the expenses paid for the care of a child under age 15 or for an incapacitated dependent or spouse, in order to be gainfully employed. The employment-related expenses on which the credit is based are limited to $2,000 for the care of one qualifying individual and $4,000 if more than one qualifying individual is involved.

Paragraph (a) of § 1.44A-1 presents a summary statement of the general rule permitting a credit against the income tax equal to 20 percent of the employment-related expenses under section 44A for expenses incurred in taxable years beginning after December 31, 1975. Generally, the credit may be claimed only for a year during which eligible expenses are paid. Accordingly, if an expense is incurred in the last month of a taxable year but not paid until the following taxable year, a credit for the expense is not allowed for the earlier taxable year but is allowed for the following taxable year.

Paragraph (b) of § 1.44A-1 lists the three categories of qualifying individuals set forth in section 44A(c)(1). In order to obtain the credit, the taxpayer must maintain a household which includes a qualifying individual from one of the three categories.

Paragraph (b)(2) of § 1.44A-1 sets forth the special dependency test in case of divorced or separated parents under section 44A(f)(5). The credit is available to a divorced or separated parent who has custody of a child under age 15 (or physically or mentally incapable of self-care) even though the parent may not be entitled to a dependency exemption for the child, if the parent claiming the credit has custody of the child for a longer period during the year than the other parent.

The rules in paragraph (b)(3) for determining on a daily basis whether a person is a qualifying individual and the rules in paragraph (b)(4) for determining that a dependent or spouse of the taxpayer is incapable of self-care because of a physical or mental defect, and is therefore a qualifying individual, are taken from §1.214A-1(b) (2) and (3) of the current regulations.

Definition of Employment-Related Expenses

Paragraph (c) of § 1.44A-1 defines the term "employment-related expenses" contained in section 44A(c)(2). Paragraph (c)(1) of § 1.44A-1 requires that the expenses (1) be incurred for the purpose of enabling the taxpayer to be gainfully employed, (2) be paid for household services or for the care of one or more qualifying individuals, and (3) be incurred during any period during which the taxpayer was gainfully employed or in active search of gainful employment. The rules in this provision have been adapted from § 1.214A-1(c)(1) of the current regulations.

Paragraph (c)(2) of § 1.44A-1 defines expenses paid for household services. For expenses to be considered as paid for household services, the expenses must also be attributable in part to the care of the qualifying individual. The rules in this provision are taken from § 1.214A-1(c)(2) of the current regulations.

Paragraph (c)(3) of § 1.44A-1 defines expenses paid for the care of a qualified individual. This definition is taken from the definition of the term "care of qualifying individual" set forth in § 1.214A-1(c)(3). Educational expenses incurred for a child in the first or higher grade level are not expenses incurred for the care of a qualifying individual (see § 1.214A-1(c)(3)(i) of the current regulations). The manner of providing care need not be the least expensive alternative available to the taxpayer (see § 1.214A-1(c)(3)(ii) of the current regulations).

Paragraph (c)(4) of § 1.44A-1 sets forth the rule under section 44A(c)(2)(B) that employment-related expenses incurred for services performed outside the household of the taxpayer shall be taken into account only if the expenses are incurred for the care of a qualifying individual under the age of 15.

Paragraph (c)(5) of § 1.44A-1 provides for allocation of expenses when incurred partially for household services or for the care of a qualifying individual and partially for other services. No allocation is required if the portion of the expense for an unrelated purpose is minimal or insignificant. The rules in this provision are taken from § 1.214A-1(c)(4) of the current regulations.

Paragraph (c)(6) of § 1.44A-1 contains three examples to illustrate the operation of paragraph (c) of § 1.44A-1. Examples (1), (2), and (3) are based upon examples (1), (2), and (3), respectively, in § 1.214A-1(c)(5) of the current regulations.

Maintenance of the Household

Paragraph (d)(1) of § 1.44A-1 sets forth the rule under section 44A(f)(1) for determining whether a taxpayer is maintaining a household, that is, meeting over one-half of the cost of maintenance of the household for the taxable year. The household must actually constitute for the taxable year the principal place of abode of the taxpayer and the qualifying individual. The rules in this provision are taken from § 1.214A-1(d)(1) of the current regulations.

Paragraph (d)(2) of § 1.44A-1 applies the rule requiring maintenance of a household to abodes occupied by two or more families and treats each family as constituting a separate household. These rules are taken from § 1.214A-1(d)(2) of the current regulations.

Paragraph (d)(3) of § 1.44A-1 provides rules for determining which are the costs incurred for maintaining a household. These rules are taken from § 1.214A-(d)(3) of the current regulations.

Paragraph (d)(4) of § 1.44A-1 provides that, in determining the cost incurred for a period of less than a taxable year maintaining a household, the annual cost of maintaining a household is to be prorated on the basis of the number of calendar months within such lesser period. The rules in this provision are taken from § 1.214A-1(d)(4) of the current regulations.

Substantiation of Credit

Paragraph (e) of § 1.44A-1 sets forth the requirements for substantiation of credits under section 44A. These rules require certain information concerning a qualifying individual to be retained by the taxpayer and furnished to the district director upon his request. These rules have been adapted from § 1.214A-1(e) of the current regulations.

Limitations on Amounts Creditable

Paragraph (a) of § 1.44A-2 states the limitation that the amount of employment-related expenses incurred during any taxable year which may be taken into account under section 44A cannot exceed $2,000 for the care of one qualifying individual and $4,000 for the care of more than one qualifying individual, as provided in section 44A(d). The annual dollar limit is not required to be prorated even if the taxpayer does not have a qualifying individual for the entire year. The entire allowance of $2,000 or $4,000 a year is available to a taxpayer who has one or two qualifying individuals, respectively, at any time during the course of the taxable year.

As provided in section 44A(e), paragraph (b) of § 1.44A-2 states that the amount of the employment-related expenses during any taxable year which may be taken into account under section 44A cannot exceed the earned income of the taxpayer, or, in the case of married individuals, the earned income of the spouse earning the smaller amount. The earned income of only the spouse to whom the taxpayer is married at the close of the year is taken into account.

Paragraph (b)(2) of § 1.44A-2 defines the term "earned income" as wages, salaries, tips, other employee compensation, and net earnings from self-employment. Earned income is reduced by any net loss in earnings from self-employment. The definition is taken from § 1.43-1(c)(3) which defines "earned income" for purposes of the earned income credit under section 43.

Paragraph (b)(3) of § 1.44A-2 sets forth the rule under section 44A(e)(2) that for purposes of the earned income limitation a spouse who is a full-time student is deemed to have earned income of not less than $166 a month if there is one qualifying individual and $333 a month if there are two or more qualifying individuals. The rules contained in § 1.44A-2(b)(3)(ii) defining the term "full-time student" have been adapted from § 1.151-3(b) of the current regulations. Paragraph (b)(3)(iii) of § 1.44A-2 provides a cross-reference to § 1.151-3(c) for the definition of "educational institution."

Paragraph (b)(4) of § 1.44A-2 contains two examples to illustrate the operation of paragraph (b) of § 1.44A-2.

Special Rules Applicable to Married Individuals

Paragraph (a) of § 1.44A-3 states the general rule of section 44A(f)(2) that if the taxpayer is married at the close of the taxable year he or she must file a joint return with his or her spouse to be entitled to claim a credit under section 44A. Paragraph (a) extends the literal scope of the statute by requiring that a joint return be filed if the spouse is deceased and if a joint return may be filed under section 6013(a)(2). However, a joint return will not be required in the case of a decedent taxpayer whose surviving spouse has remarried. These additional rules are based on § 1.214A-4 of the current regulations.

Paragraph (b) of § 1.44A-3 states the rule of section 44A(f)(3) that an individual legally separated under a decree of divorce or of separate maintenance is not considered as married for purposes of section 44A.

Paragraph (c) of § 1.44A-3 sets forth the rule of section 44A(f)(4) that certain married individuals living apart will be treated as not married for purposes of section 44A.

Payments to Related Individuals

Paragraph (a)(1) of § 1.44A-4 states the general rule of section 44A(f)(6)(A) which denies a credit for employment-related expenses paid to an individual related to the taxpayer in any of the degrees stated. These degrees of relationship are taken from section 152(a).

Paragraph (a)(2) of § 1.44A-4 in accordance with section 44A(f)(6)(B) provides an exception for payments to certain related individuals. A credit is allowed for employment-related expenses paid to a related individual who is not a dependent of the taxpayer (or his or her spouse), if the services performed constitute employment within the meaning of section 3121(b). Paragraph (a)(2) of § 1.44A-4 lists those services performed by a relative which may qualify as employment under section 3121(b)(3), relating to the definition of employment for purposes of the Federal Insurance Contributions Act. The proposed regulations make it clear that a credit will not be allowed with respect to employment-related expenses paid to a relative for services which do no constitute employment under section 3121(b)(3) but constitute a trade or business of the relative.

Paragraph (a)(3) of § 1.44A-4 provides that where a partnership or other entity is used to circumvent the rule relating to payments to a related individual the payments of employment-related expenses to the partnership or entity will be treated as being made directly to each partner or owner in proportion to his or her share of the partnership or entity.

Paragraph (a)(4) of § 1.44A-4 contains two examples to illustrate the operation of paragraph (a) of § 1.44A-4.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to the income tax regulations (26 CFR Part 1), the employment tax regulations (26 CFR Part 31), and the regulations on procedure and administration (26 CFR Part 301) are amended as follows:

Paragraph 1. The following new sections are added immediately after § 1.44-5:

§ 1.44A-1 Expenses for household and dependent care services necessary for gainful employment.

(a) *In general.* (1) This section applies only for expenses incurred in taxable years beginning after December 31, 1975. For deductibility of expenses incurred in taxable years beginning before January 1, 1972, see § 1.214-1. For deductibility of expenses incurred in taxable years beginning after December 31, 1971, and before January 1, 1976, see §§ 1.214A-1 through 1.214A-5.

(2) Section 44A allows a credit against the tax imposed by chapter 1 of the code to an individual who maintains a household (within the meaning of paragraph (d) of this section) which includes as a member one or more qualifying individuals (as defined in paragraph (b) of this section). The amount of the credit is equal to 20 percent of the employment-related expenses (as defined in paragraph (c) of this section) paid by the individual during the taxable year (but subject to the limits prescribed in § 1.44A-2(a)). However, the credit cannot exceed the tax imposed by chapter 1, reduced by the sum of the allowable credits enumerated in section 44A(b).

(3) Generally, the credit for employment-related expenses is allowable, regardless of the taxpayer's method of accounting, only for expenses which are actually paid during the taxable year and which are incurred during the taxable year or were incurred during a prior taxable year beginning after December 31, 1975. If the expenses are incurred but not paid during the taxable year, no credit may be taken for that year on account of those expenses. Thus, if an expense is incurred in the last month of a taxable year but not paid until the following taxable year, a credit for the expense is not allowed for the earlier taxable year but is allowed for the following taxable year. However, if an expense is incurred in a taxable year beginning before January 1, 1976, and paid in a later taxable year, no credit is allowed with respect to the expense under section 44A. Section 214 and the regulations thereunder are applicable in determining whether a deduction for the expense is allowed in the year of payment.

(4) Since an expense is not an employment-related expense until an obligation is incurred (see paragraph (c) of this section), prepaid expenses may be claimed only in the taxable year in which services are performed.

(5) The requirements of section 44A, this section and §§ 1.44A-2 through 1.44A-4 are applied to expenses as of the time they are incurred regardless of when they are paid.

(6) For special rules relating to employment-related expenses which also qualify as medical expenses deductible under section 213, see § 1.44A-4(b).

(7) For substantiation of the credit, see paragraph (e) of this section.

(b) *Qualifying individual*—(1) *In general.* A person is considered to be a qualifying individual if he or she is—

(i) The taxpayer's dependent who is under the age of 15 and is an individual for whom the taxpayer is entitled to a deduction for a personal exemption under section 151(e);

(ii) The taxpayer's dependent (not described in subdivision (i)) who is physically or mentally incapable of self-care; or

(iii) The taxpayer's spouse who is physically or mentally incapable of self-care.

The term "dependent," as used in this paragraph (b)(1), includes any individual who is a dependent within the meaning of section 152. However, see paragraph (b)(2) of this section for special rules for determining which parent may treat a child as a qualifying individual where the parents are divorced, legally separated, or separated under a written separation agreement.

(2) *Special dependency test in case of divoreed or separated parents.* A child (as defined in section 151(e)(3)) who—

(i) Is under age 15 or is physically or mentally incapable of self-care,

(ii) Receives over half of his or her support during the calendar year from his or her parents who are divorced or legally separated under a decree of divorce (or separate maintenance) or who are separated under a written separation agreement, and

(iii) Is in the custody of one or both of his or her parents for more than one-half of the calendar year,

is treated for any taxable year beginning in the calendar year as a qualifying individual (described in subdivision (i) or (ii), as the case may be, of paragraph (b)(1) of this section) of that parent who has custody for a longer period during the calendar year than the other parent. Accordingly, a child may be treated as a qualifying individual of a parent even though the parent is not entitled to a dependency exemption for the child. The child cannot be treated as a qualifying individual of more than one parent.

(3) *Qualification on a daily basis.* The status of a person as a qualifying individual is determined on a daily basis. Thus, if a dependent or spouse of a taxpayer ceases to be a qualifying individual on September 16, the dependent or spouse is treated as a qualifying individual through September 15 only.

(4) *Physical or mental incapacity.* An individual is considered to be physically or mentally incapable of self-care if as a result of a physical or mental defect the individual is incapable of caring for his or her hygienical or nutritional needs, or requires full-time attention of another person for his or her own safety or the safety of others. The fact that an individual, by reason of a physical or mental defect, is unable to engage in any substantial gainful activity, or is unable to perform the normal household functions of a homemaker or to care for minor children, does not of itself establish that the individual is physically or mentally incapable of self-care. An individual who is physically handicapped or is mentally defective, and for such reason requires constant attention of another person, is considered to be physically or mentally incapable of self-care.

(c) *Employment-related expenses*—(1) *Gainful employment*—(i) *In general.* Expenses are considered to be employment-related expenses only if they are incurred to enable the taxpayer to be gainfully employed and are paid for household services or for the care of one or more qualifying individuals. The expenses must be incurred while the taxpayer is gainfully employed or is in active search of gainful employment. The employment may consist of service either within or without the home of the taxpayer and may include self-employment. Volunteer work for a nominal salary does not constitute qualifying employment. An expense is not considered to be employment-related merely because it is incurred while the taxpayer is gainfully employed. The purpose of the expense must be to enable the taxpayer to be gainfully employed. Whether the purpose of an expense is to enable the taxpayer to be gainfully employed depends upon the facts and circumstances of the particular case. Any tax required to be paid by the taxpayer under section 3111 (relating to the Federal Insurance Contributions Act) in respect of any wages which otherwise constitute employment-related expenses is considered to be an employment-related expense.

(ii) *Determination of period of employment on a daily basis.* An allocation of expenses is required on a daily basis when the expenses cover any period during part of which the taxpayer is gainfully employed or is in active search of gainful employment and during the other part of which there is no employment or active search for gainful employment. Thus, for example, if a taxpayer incurs during each month of the taxable year $60 of expenses which would be employment-related if he or she were gainfully employed all year, and the taxpayer is gainfully employed, or in active search of gainful employment, for only 2 months and 10 days during

such year, the amount of employment-related expenses is limited to $140.

(2) *Household services.* Expenses are considered to be paid for household services if they are paid for the performance in and about the taxpayer's home of ordinary and usual services necessary to the maintenance of the household. However, expenses are not considered as paid for household services unless the expenses are attributable in part to the care of the qualifying individual. Thus, amounts paid for the services of a domestic maid or cook are considered to be expenses paid for household services if a part of those services is provided to the qualifying individual. Amounts paid for the services of an individual who is employed as a chauffeur, bartender, or gardener, however, are not considered to be expenses paid for household services.

(3) *Care of qualifying individual*—(i) *In general.* The primary purpose of expenses for the care of a qualifying individual must be to assure that individual's well-being and protection. Not all benefits bestowed upon a qualifying individual are considered as provided for the individual's care. Accordingly, amounts paid to provide food, clothing, or education are not expenses paid for the care of a qualifying individual. However, where the manner of providing care is such that the expense which is incurred includes expense for other benefits which are inseparably a part of the care, the full amount of the expense is considered to be incurred for care. Thus, for example, the full amount paid to a nursery school in which a qualifying child is enrolled in considered as being for the care of the child, even though the school also furnishes lunch and educational services. Educational expenses incurred for a child in the first or higher grade level are not expenses incurred for the care of a qualifying individual. Expenses incurred for transportation of a qualifying individual described in paragraph (b)(1)(i) of this section between the taxpayer's household and a place outside the taxpayer's household where services for the care of the qualifying individual are provided are not incurred for the care of a qualifying individual.

(ii) *Manner of providing care.* The manner of providing the care need not be the least expensive alternative available to the taxpayer. For example, the taxpayer's mother may reside at the taxpayer's home and be available to provide adequate care at no cost for the taxpayer's wife who is physically or mentally incapable of caring for herself. Nevertheless, the expenses incurred in providing a nurse for the wife may be an expense for the care of the wife. See paragraph (c)(1)(i) of this section with respect to the requirement that the expense must be for the purpose of permitting the taxpayer to be gainfully employed.

(4) *Services outside the taxpayer's household.* The credit is allowed under section 44A with respect to employment-related expenses incurred for services performed outside the household of the taxpayer only if the expenses are incurred for the care of one or more qualifying individuals of the taxpayer who are under the age of 15. Otherwise, the credit is only allowed with respect to employment-related expenses incurred for services performed in the household of the taxpayer. Thus for example, if a taxpayer places his or her invalid father in a nursing home, the taxpayer is not entitled to a credit with respect to employment-related expenses incurred for the father's care provided by the nursing home. If, however, the father remains in the taxpayer's household, the taxpayer is allowed a credit with respect to employment-related expenses attributable to the care for the father.

(5) *Allocation of expenses.* Where a portion of an expenses is for household services or for the care of a qualifying individual and a portion of such expense is for other purposes, a reasonable allocation must be made and only the portion of the expense paid which is attributable to such household services or care is considered to be an employment-related expense. No allocation is required to be made, however, if the portion of expense for the unrelated purpose is minimal or insignificant. An allocation must be made, for example, if a servant performs household duties, cares for the qualifying children of the taxpayer, and also performs social services for the taxpayer (for which a deduction is not allowable) and clerical services in the office of the taxpayer outside the home (for which a deduction may be allowable under section 162). Employment-related expenses include household service expenses which are provided in conjunction with the care of a qualifying individual. Thus, if an expense is in part attributable to the care of a qualifying individual and in part to household services, no allocation is required.

(6) *Illustrations.* The application of this paragraph (c) may be illustrated by the following examples:

Example (1). The taxpayer lives with her mother who is physically incapable of caring for herself. In order to be gainfully employed the taxpayer hires a practical nurse whose sole duty consists of providing for the care of the mother in the home while the taxpayer is at work. All amounts spent for the services of the nurse are employment-related expenses.

Example (2). The taxpayer has a dependent child 10 years of age who has been attending public school. The taxpayer, who has been working part time, is offered a position involving full-time employment which she can accept only if the child is placed in a boarding school. The taxpayer accepts the position and the child is sent to a boarding school. The expenses paid to the school must be allocated between that part of the expenses which represents care for the child and that part which represents tuition for education. The part of the expense representing care of the child is incurred for the purpose of permitting the taxpayer to be gainfully employed.

Example (3). The taxpayer, in order to be gainfully employed, employs a full-time housekeeper who cares for the taxpayer's two children, aged 9 and 15 years, respectively, performs regular household services of cleaning and cooking, and chauffeurs the taxpayer to and from his place of employment. The chauffeuring service never requires more than 30 minutes out of the total period of employment each day. No allocation is required for purposes of determining the portion of the expense attributable to the chauffeuring (not a household service expenses) since it is de minimis. Further, no allocation is required for the purpose of determining the portion of the expense attributable to the care of the 15-year-old child (not a qualifying individual) since the household expense is in part attributable to the care of the 9-year-child, who is a qualifying individual. Accordingly, the entire expense of employing the housekeeper is an employment-related expense. The total amount of employment-related expenses taken into account would be limited to the amount allowable for one qualifying individual.

(d) *Maintenance of a household*—(1) *In general.* An individual is considered to have maintained a household for the taxable year (or lesser period) only if the individual (and his or her spouse if the individual is married) have furnished over one-half of the cost incurred for such taxable year (or lesser period) in maintaining the household. The household must actually constitute for the taxable year the principal place of abode of the taxpayer and the qualifying individual or individuals described in paragraph (b) of this section. It is not sufficient that the taxpayer maintain the household without being its occupant. A physical change in the location of the home does not, however, prevent the home from constituting the principal place of abode of the taxpayer and a qualifying individual. The fact that an individual is born or dies during the taxable year does not prevent a home from constituting his or her principal place of abode for such year. An individual is not considered to have terminated a household as his or her principal place of abode merely by reason of temporary absences therefrom by reason of illness, education, business, vacation, military service, or a custody agreement.

(2) *Two or more families.* Solely for purposes of section 44A and this section, if two or more families occupy living quarters in common, each of the families is treated as constituting a separate household, and the taxpayer who provides more than one-half of the costs of maintaining such a separate household is treated as maintain-

ing that household. Thus, for example, if two unrelated women each with children occupy living quarters in common and each woman pays more than one-half of the household costs incurred by her respective family, each woman will be treated as maintaining her separate household.

(3) *Costs of maintaining a household.* The costs of maintaining a household are the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of the occupants. The expenses of maintaining a household include property taxes, mortgages interest, rent, utility charges, upkeep and repairs, property insurance, and food consumed on the premises. These expenses do not include the cost of clothing, education, medical treatment, vacations, life insurance, or transportation or payments on mortgage principal or for the purchase, permanent improvement, betterment, or replacement of property. However, the costs of maintaining a household do not include the value of services performed in the household by a qualifying individual described in paragraph (b) of this section. An expense incurred by a taxpayer in respect of which money or other property is received from another as compensation or reimbursement is not considered as a cost of maintaining a household.

(4) *Monthly proration of annual costs.* In determining the cost incurred for a period of less than a taxable year in maintaining a household, the cost incurred during the entire taxable year must be prorated on the basis of the number of calendar months within such lesser period. For this purpose a period of less than a calendar month will be treated as a calendar month. Thus, for example, if the cost of maintaining a household for a taxable year is $6,600, and the period in respect of which a determination is being made under section 44A is from June 20 to December 31, the taxpayer must furnish more than $1,925 ([$6,600×7/12]×50 percent) in maintaining the household from June 1 to December 31.

(e) *Substantiation.* A taxpayer claiming a credit under paragraph (a) of this section for employment-related expenses must substantiate by adequate records or other sufficient evidence any credit taken under this section. For example, if requested, the taxpayer must furnish information as to the nature and period of the physical or mental incapacitation of any dependent or spouse in respect of whom a credit is claimed, including necessary information from the attending physician as to the nature of the physical or mental incapacity.

§ 1.44A-2 Limitations on amount creditable.

(a) *Annual dollar limit on amount creditable.* The amount of the employment-related expenses incurred during any taxable year which may be taken into account under § 1.44A-1(a) cannot exceed—

(1) $2,000 if there is one qualifying individual with respect to the taxpayer at any time during the taxable year, or

(2) $4,000 if there are two or more qualifying individuals with respect to the taxpayer at any one time during the taxable year.

For example, a calendar year taxpayer whose only qualifying individual reaches age 15 on April 1, 1976, is subject for 1976 to the entire annual dollar limit of $2,000, without proration of the $2,000 limit. However, only expenses incurred prior to the child's 15th birthday may be employment-related expenses.

(b) *Earned income limitation*—(1) *In general.* The amount of employment-related expenses incurred during any taxable year which may be taken into account under § 1.44A-1(a) cannot exceed—

(i) For an individual not married at the close of the year, the individual's earned income for the year, or

(ii) For an individual married at the close of the year, the lesser of the individual's earned income or the earned income of his spouse for the year.

For purposes of this paragraph (b)(1), the earned income of only the spouse to whom the taxpayer is married at the close of the year is taken into account (and not the earned income of another spouse who died or was divorced from the taxpayer during the year). Further, the spouse's earned income for the entire year is taken into account, even though the taxpayer and his or her spouse was married during the year. For purposes of this paragraph (b), certain married individuals legally separated or living apart are treated as not married (see § 1.44A-3 (b) and (c), respectively).

(2) *Earned income.* For purposes of this section, earned income means—

(i) Wages, salaries, tips, other employee compensation, and

(ii) Net earnings from self-employment (within the meaning of section 1402(a) and the regulations thereunder),

Which are includible in the eligible individual's gross income for the taxable year of the taxpayer in which the credit is claimed. However, earned income is computed without regard to any community property laws which may otherwise be applicable. Earned income is reduced by any net loss in earnings from self-employment. Earned income does not include amounts received as a pension or an annuity, an amount to which section 871(a) and the regulations thereunder apply (relating to income of nonresident alien individuals not connected with United States business), or an amount excluded from gross income under section 105 and the regulations thereunder (relating to amounts received under accident and health plans).

(3) *Special rule for spouse who is a student or incapable of self-care.* (i) For purposes of this section, a spouse is deemed, for each month during which the spouse is a full-time student or is a qualifying individual described in § 1.44A-1(b)(1)(iii), to be gainfully employed and to have earned income of not less than—

(A) $166, if there is one qualifying individual with respect to the taxpayer at any time during the taxable year, or

(B) $333, if there are two or more qualifying individuals with respect to the taxpayer at any one time during the taxable year.

However, in the case of any husband and wife, this subparagraph shall apply with respect to only one spouse for any one month.

(ii) A "full-time student" is an individual who is enrolled at and attends and educational institution during each of 5 calendar months of the taxable year of the taxpayer for the number of course hours which is considered to be a full-time course of study. The enrollment for 5 calendar months need not be consecutive. School attendance exclusively at night does not constitute a full-time course of study. However, a full-time course of study may include some attendance at night.

(iii) For the definition of "educational institution", see § 1.151-3(c).

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). During the taxable year, A, a married taxpayer, incurs and pays employment-related expenses of $4,000 for the care of a qualifying individual. A's earned income for the taxable year is $20,000 and his wife's earned income is $1,500. Under these circumstances, the amount of employment-related expenses for the year which may be taken into account under § 1.44A-1(a) is $1,500, determined as follows:

Employment-related expenses incurred during taxable year ($40,000, but limited to $2,000 by paragraph (a)(1) of this section)	$2,000
Application of paragraph (b)(1)(ii) of this section (employment-related expenses, may not exceed wife's earned income of $1,500	1,500
Employment-related expenses taken into account	1,500

Example (2). Assume the same facts as in example (1) except that A's wife is a full-time student for nine months of the taxable year and earns no income for the year. Under these circumstances, the amount of

employment-related expenses for the year which may be taken into account under § 1.44A-1(a) is $1,494, determined as follows:

Employment-related expenses incurred during taxable year ($4,000, but limited to $2,000 by paragraph (a)(1) of this section)	$2,000
Application of paragraph (b)(3) of this section [employment-related expenses may not exceed wife's earned income of $1,494 ($166 x 9)]	1,494
Employment-related expenses taken into account	1,494

§ 1.44A-3 Special rules applicable to married individuals.

(a) *Joint return requirement.* This section applies only if the taxpayer is married at the close of a taxable year in which employment-related expenses are paid. In such a case the credit provided by section 44A with respect to employment-related expenses is allowed only if for the taxable year the taxpayer and his or her spouse file a joint return. If either spouse dies during the taxable year and a joint return may be made for the year under section 6013(a)(2) for the survivor and the deceased spouse, the credit is allowed for the year only if a joint return is made. If, however, the surviving spouse remarries before the end of the taxable year in which his or her first spouse dies, a credit is allowed on the separate return which is made for the decedent spouse. For purposes of this section, certain married individuals legally separated or living apart are treated as not married, as provided in paragraphs (b) and (c), respectively, of this section.

(b) *Marital status.* For purposes of section 44A, an individual legally separated from his or her spouse under a decree of divorce or of separate maintenance is not considered as married.

(c) *Certain married individuals living apart.* For purposes of section 44A, an individual who is married within the meaning of section 143(a) is treated as not married for the entire taxable year, if the individual—

(1) Files a separate return for the year,

(2) Maintains as his or her home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

(3) Furnishes over one-half of the cost of maintaining the household for the year,

and if the individuals spouse is not a member of the household at any time during the last 6 months of the year. Thus for example, an individual who is married during the taxable year, but is treated as not married by reason of this paragraph, may determine the earned income limitation upon the amount of employment-related expenses without taking into account the earned income of his or her spouse under § 1.44A-2(b).

§ 1.44A-4 Other special rules relating to employment-related expenses.

(a) *Payments to related individuals*—(1) *In general.* Except as otherwise provided in paragraph (a)(2) of this section, a credit is not allowed under section 44A with respect to the amount of any employment-related expenses paid by the taxpayer to an individual who bears to the taxpayer any relationship described in section 152(a) (1) through (8). These relationships are those of a son or daughter or descendant thereof; a stepson or stepdaughter; a brother, a sister, stepbrother, or stepsister; a father or mother or an ancestor of either; a stepfather or stepmother; a nephew or niece; an uncle or aunt; or a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law. In addition, no credit is allowed with respect to the amount of any employment-related expenses paid by the taxpayer to an individual who qualifies as a dependent of the taxpayer for the taxable year within the meaning of section 152(a)(9), which relates to an individual (other than the taxpayer's spouse) whose principal place of abode for the taxable year is the home of the taxpayer and who is a member of the taxpayer's household.

(2) *Exception for payments to certain related individuals.* A credit is allowed for the amount of any employment-related expenses paid by the taxpayer to an individual provided that neither the taxpayer nor his or her spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) with respect to such individual for the taxable year in which th service is performed; and the service with respect to which the amount is paid constitutes employment within the meaning of section 3121(b). The following services performed for a taxpayer by a relative are not excepted from employment under section 3121(b) and may qualify as employment:

(i) Services performed by the taxpayer's child age 21 or over.

(ii) Domestic services in the taxpayer's home performed by the taxpayer's parent if—

(A) The taxpayer has in his or her home a child who is under age 18 or who has a physical or mental condition requiring the personal care of an adult during at least 4 continuous weeks in the quarter, and

(B) The taxpayer is a widow or widower or is divorced, or has a spouse living in the home who, because of a physical or mental condition, is incapable of caring for his or her child during at least 4 continuous weeks in the quarter.

(iii) Services of all relatives other than a child, spouse, or parent of the taxpayer.

A credit is not allowed under section 44A with respect to employment-related expenses paid by the taxpayer to a relative for services which do not constitute employment under section 3121(b). Services performed by a relative do not constitute employment if they relate to the relative's trade or business the income from which is includible in computing the relative's net earnings for purposes of the self-employment tax under section 1401.

(3) *Payments to entities or partnerships.* If the services are performed by an entity or partnership, paragraph (a)(1) of this section is normally not applicable. If, however, the entity or partnership is established or maintained primarily to avoid the application of paragraph (a)(1) in order to permit the taxpayer to obtain the credit with respect to employment-related expenses, for purposes of this paragraph, the payments of employment-related expenses shall be treated as made directly to each owner of the entity or partner in proportion to his or her share of the entity or partnership. A factor to consider for purposes of determining whether an entity or partnership is so established or maintained is whether the entity or partnership is set up solely to care for the taxpayer's qualifying individual and to provide household services to the taxpayer.

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). A, a divorced taxpayer, pays $5,000 of employment-related expenses to his mother for the care of his child age 5. A's mother cares for the child in her home. the services performed by A's mother do not constitute employment under section 3121(b). Accordingly, A is not allowed a credit with respect to the amounts paid to the mother for the care of his child.

Example (2). B, a divorced taxpayer, pays $6,000 of employment-related expenses to his sister (who is not a dependent of the taxpayer) for the care of his child. The services performed by B's sister in the care of his child constitute a trade or business the income from which is includible in computing net earnings for purposes of the self-employment tax under section 1401. Accordingly, B is not allowed a credit with respect to the amounts paid to the sister for the care of his child.

(b) *Expenses qualifying as medical expenses.* An expense which may constitute an amount otherwise deductible under section 213, relating to medical, etc., expenses, may also constitute an expense with respect to which a credit is allowable under section 44A. In such a case, that part of the amount with respect to which a credit is allowed under section 44A will not be considered as an expense for

purposes of determining the amount deductible under section 213. On the other hand, where an amount is treated as a medical expense under section 213 for purposes of determining the amount deductible under that section, it may not be treated as an employment-related expense for purposes of section 44A. The application of this paragraph may be illustrated by the following examples:

Example (1). A taxpayer pays $5,000 of employment-related expenses during the taxable year for the care of his child when the child is physically incapable of self-care. These expenses are incurred for services performed in the taxpayer's household and are of a nature which qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is $100,000. Of the total expenses, the taxpayer may take $2,000 into account under section 44A; the balance of the expenses, or $3,000, may be treated as medical expenses to which section 213 applies. However, this amount does not exceed 3 percent of the taxpayer's adjusted gross income for the taxable year and is thus not allowable as a deduction under section 213.

Example (2). Assume the same facts as in example (1). It is not proper for the taxpayer first to determine his deductible medical expenses of $2,000 ($5,000—[$100,000×3 percent]) under section 213 and then claim the $3,000 balance as employment-related expenses for purposes of section 44A. This is because the $3,000 balance has been treated as a medical expense in computing the amount deductible under section 213.

Example (3). A taxpayer incurs and pays $12,000 of employment-related expenses during the taxable year for the care of his child. These expenses are incurred for services performed in the taxpayer's household, and they also qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is $18,000. The taxpayer takes $2,000 of such expenses into account under section 44A. The balance, or $10,000, he treats as medical expenses for purposes of section 213. The allowable deduction under section 213 for the expenses is limited to the excess of the balance of $10,000 over $540 (3 percent of the taxpayer's adjusted gross income of $18,000), or $9,460.

§ 1.213 and Historical Note [Deleted]

PAR. 2. Section 1.213 and the historical note are deleted.

PAR. 3. Paragraph (f) of § 1.213-1 is revised to read as follows:

§ 1.213-1 Medical, dental, etc., expenses.

* * * * *

(f) *Exclusion of amounts allowed for care of certain dependents.* Amounts taken into account under section 44A in computing a credit for the care of certain dependents shall not be treated as expenses paid for medical care.

* * * * *

§ 1.214 and Historical Note [Deleted]

PAR. 4. Section 1.214 and the historical note are deleted.

PAR. 5. Paragraph (a)(1) of § 1.214-1 is revised to read as follows:

§ 1.214-1 Expenses for the care of certain dependents incurred during taxable years beginning before January 1, 1972.

(a) *General rule.* (1) This section applies only for expenses incurred during taxable years beginning before January 1, 1972. For expenses incurred in taxable years beginning after December 31, 1971, and before January 1, 1976, see §§ 1.214A-1 through 1.214A-5.

§ 1.214A and Historical Note [Deleted]

PAR. 6. Section 1.214A and the historical note are deleted.

PAR. 7. Section 1.214A-1 is amended by revising the heading thereto and by revising so much of paragraph (a)(1) thereof as precedes subdivision (i) to read as follows:

§ 1.214A-1 Certain expenses to enable individuals to be gainfully employed incurred during taxable years beginning after December 31, 1971, and before January 1, 1976.

(a) *In general.* For expenses incurred during taxable years beginning after December 31, 1971, and before January 1, 1976, section 214 allows (subject to the requirements of this section and §§ 1.214A-2 through 1.214A-5) a deduction for employment-related expenses (as defined in paragraph (c) of this section) which are paid during the taxable year by an individual who maintains a household (within the meaning of paragraph (d) of this section) that includes as a member one or more qualifying individuals (as defined in paragraph (b) of this section). The deduction for expenses allowed under section 214 may be taken only as an itemized deduction and may not be taken into account in determining adjusted gross income under section 62. No deduction shall be allowed under section 214 in respect of any expenses incurred during a taxable year beginning after March 29, 1975, and before January 1, 1976, for which the taxpayer's adjusted gross income is $44,600 or more (or incurred during a taxable year beginning after December 31, 1971, and before March 30, 1975, for which the taxpayer's adjusted gross income is $27,600 or more). Expenses which are taken into account in determining the deduction under section 214—

* * * * *

PAR. 8. Section 1.214A-2 is amended by revising so much of paragraph (c)(1) thereof as precedes example (3) to read as follows:

§1.214A-2 Limitations on deductible amounts.

* * * * *

(c) *Taxpayer's income limitation—*(1) *In general.* This paragraph applies only if the adjusted gross income of the taxpayer for the taxable year exceeds the amount of $35,000, in the case of a taxable year beginning after March 29, 1975, and before January 1, 1976 (or the amount of $18,000 in the case of a taxable year beginning after December 31, 1971, and before March 30, 1975). In either case, in determining the deduction allowable under § 1.214A-1(a) for employment-related expenses, the amount of the expenses incurred during any calendar month of the taxable year must be reduced by an amount equal to the excess of the adjusted gross income of the taxpayer for the taxable year over the applicable income limitation ($35,000 or $18,000, as the case may be) divided by twice the number of calendar months in the taxable year. For purposes of applying the taxpayer's income limitation a period of less than a calendar month will be treated as a calendar month. The limitation provided by this paragraph must be applied after making the reduction in the amount of employment-related expenses provided by paragraph (a) of § 1.214A-3 and after the application of the limitations upon the amount deductible provided by paragraph (a) of § 1.214A-3 and after the application of the limitations upon the amount deductible provided by paragraphs (a) and (b) of this section. The application of this subparagraph may be illustrated by the following examples:

Example (1). A, a single individual who uses a fiscal year ending March 31 as the taxable year, incurs (and pays) during May 1975 employment-related expenses of $600. He has adjusted gross income of $41,000 for the fiscal year ending March 31, 1976. Under these circumstances the amount of employment-related expenses for the month of May 1975 which may be taken into account under paragraph (a) of § 1.214A-1 is $150, determined as follows:

Employment-related expenses incurred during May ($600, but not to exceed $400 under paragraph (a) of this section)		$400
Less: Reduction under this subparagraph:		
Adjusted gross income for taxable year	$41,000	
Less: Taxpayer's income limitation applicable to taxable year beginning after March 29, 1975	35,000	

Excess adjusted gross income over income limitation	6,000
Excess divided by twice the number of calendar months in taxable year ($6,000 ÷ [2 × 12])	250
Employment-related expenses to be taken into account	150

Example (2). Assume the same facts as in example (1) except that A incurs employment-related expenses of only $200 during May 1975. Under these circumstances no amount of employment-related expenses may be taken into account for the month of May under paragraph (a) of § 1.214A-1 because the expenses of $200 for the month are fully offset by the reduction of $250 required under this subparagraph.

* * * * *

§ 31.3402 [Amended]

PAR. 9. Section 31.3402(m) and the historical note are deleted.

§ 301.6096 and historical note [deleted]

PAR. 10. Section 301.6096 and the historical note are deleted.

PAR. 11. Paragraph (b) of § 301.6096-1 is amended to read as follows:

§ 301.6096-1 Designation by individuals for taxable years beginning after December 31, 1972.

* * * * *

(b) *Income tax liability.* For purposes of paragraph (a) of this section, the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for the taxable year (as shown on his or her return) reduced by the sum of the credits (as shown on his or her return) allowable under sections 33, 37, 38, 40, 41, 42, 44, and 44A.

* * * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-24740 Filed 8-31-78; 8:45 am]

[4830-01]

[26 CFR Part 31]

[LR-16-77]

DEFINITION OF COMPENSATION FOR PURPOSES OF THE RAILROAD RETIREMENT TAX ACT

Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the definition of compensation for purposes of the Railroad Retirement Tax Act. Changes to the applicable tax law were made by the act of October 18, 1976. These regulations provide necessary guidance to comply with that act and would affect employees, employee representatives, and employers to whom the Railroad Retirement Tax Act applies.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 31, 1978. The amendments are proposed to be effective for taxable years ending after December 31, 1953.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-16-77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202-566-3297.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 3231 (e) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 4 (b) and (c)(2) of the act of October 18, 1976 (Pub. L. 94-547; 90 Stat. 2526) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF PROVISIONS

Pub. L. 94-547 amends section 3231(e) of the Internal Revenue Code by excluding two types of payments from the definition of compensation for purposes of the Railroad Retirement Tax Act. First, the statute excludes from compensation payments (including amounts paid for insurance) to an employee or his dependents because of sickness or accident disability, or for medical and hospital expenses in connection with sickness or accident disability. These payments are excluded only if made under a plan or system of general applicability. Section 31.3231 (e)-1(a)(3)(i) of the proposed regulations states that payments under a plan or system established by an employer solely for the dependents of employees are not within this exclusion from compensation. The proposed regulations make it clear that it is immaterial for purposes of this exclusion whether the amount or possibility of these benefit payments is taken into consideration in fixing an employee's remuneration or whether the payments are required by the contract for service.

Pub. L. 94-547 also excludes from the definition of compensation amounts paid specifically, either as advances or reimbursements or allowances, for traveling or other bona fide and necessary expenses incurred in the business of the employer. However, those traveling and other business expenses must be identified by the employer either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

The amendments are proposed to be effective for taxable years ending after December 31, 1953. However, in determining whether any taxes paid under the Railraoad Retirement Tax Act are to be adjusted by reason of the amendments, if the applicable period of limitation for the filing of a claim for credit or refund of those taxes expires after October 18, 1976, and before April 18, 1977, that period of limitation is to be considered to expire on April 18, 1977.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Leonard T. Marcinko of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing these regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR part 31 are as follows:

Paragraph 1. Section 31.3231(e) and the historical note thereto are deleted.

Par. 2. Section 31.3231(e)-1 is amended by revising subparagraph (3) of paragraph (a), by revising subpara-

graph (2) of paragraph (b), by deleting subparagraph (3) of paragraph (b) and redesignating subparaghs (4), (5), (6), (7), and (8) of paragraph (b) as subparagraphs (3), (4), (5), (6), and (7), respectively, and by revising redesignated subparagraph (4) of paragraph (b). These revised provisions read as follows:

§ 31.3231(e)-1 Compensation.

(a) *Definition.* * * *

(3) The term "compensation" does not include the following items:

(i) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability. Payments under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from compensation. Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family. It is immaterial for purposes of this exclusion whether the amount or possibility of such benefit payments is taken into consideration in fixing the amount of an employee's remuneration or whether such payments ar required, expressly or impliedly, by the contract of service.

(ii) Tips, except as provided in section 3231(e)(3) of the Code.

(iii) The voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201.

(iv) An amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer, provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment. In determing whether any taxes paid under the Railroad Retirement Tax Act are to be adjusted by reason of subdivision (i) or (iv) of this subparagraph, if the applicable period of limitation for the filing of a claim for credit or refund of such taxes expires after October 18, 1976, and before April 18, 1977, such period of limitation is considered to expire on April 18, 1977.

* * * * *

(b) *Items included as compensation.* * * *

(2) Vacation allowances or back pay upon reinstatement after wrongful discharge.

* * * * *

(4) Amounts paid as allowance or reimbursement for traveling or other expenses incurred in the business of the employer if such amounts are not identified by the employer by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.

* * * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-24781 Filed 8-31-78; 8:45 am]

[8320-01]

VETERANS' ADMINISTRATION

[38 CFR Part 36]

LOAN GUARANTY

Restrictions on Designated Fee Appraisers Lien Requirements

AGENCY: Veterans' Administration.

ACTION: Proposed regulations.

SUMMARY: The VA (Veterans' Administration) is proposing to amend two of its regulations. One amendment will alter the conflict of interest guidelines with respect to appraisals completed by designated fee appraisers on VA loans used to finance the repair, alteration, or improvement (hereafter referred to as home improvement) of veterans' homes. The other amendment will alter the lien requirements on VA guaranteed or insured loans. The amendment of these two regulations is necessary in order to simplify the procedures which a lender must follow in order to make a home improvement loan to a veteran. The two regulatory changes should generate greater lender participation in the field of VA home improvement loans.

DATES: Comments must be received on or before October 2, 1978. It is proposed to make these amendments effective on the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. George D. Moerman, Assistant Director for Loan Policy (264), Veterans' Administration, Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: The Veterans' Administration is proposing to amend its regulations in two important areas in order to simplify the processing requirements on VA loans for the purpose of home improvements. First, § 36.4340 presently prohibits designated fee appraisers from completing appraisals if the appraiser is an officer, director, trustee, employer, or employee of the lender, contractor, or vendor. However, the present regulation has one exception. If the loan is for the purpose of making home improvements costing not more than $2,500, the appraiser may also hold one of the positions named above. The purpose of the proposed amendment to § 36.4340 is to increase the dollar maximum in the home improvement exception from $2,500 to $3, 500. Thus, under the proposed regulation, if the cost on a home improvement loan does not exceed $3,500, an officer, director, trustee, employer, or employee of the lender, contractor, or vendor could also serve as the designated fee appraiser.

Section 36.4351 presently establishes the VA lien requirements for guaranteed and insured loans. Those requirements are as follows:

1. If the loan is an acquisition loan, or if the home loan is for alterations, improvements or repairs and for more than $1,000, and more than 40 percent of the prior-to-improvement reasonable value of the property, the loan must be secured by a first lien;

2. If the home loan is for alteration, improvement or repairs, and for more than $1,000 but 40 percent or less of the prior-to-improvement reasonable value of the property, the loan may be secured by a first or second lien; and

3. If the home loan is for alteration, improvement, or repairs and for less than $1,000, no lien is necessary.

One purpose of the proposed amendment to § 36.4351 is to increase the basis figure of $1,000 to $1,500. Another purpose is to change the lien requirements on loans for alteration, improvement, or repairs to a veteran's home which cost more than $1,500 (as proposed) but constitute 40 percent or less of the prior-to-improvement reasonable value of the property. The proposed requirement for such loans will be that lenders must obtain a lien reasonable and customary in the community for the type of home improvement loan which is granted. this may constitute a first or second lien, but it

also may be a lesser lien or financing statement in appropriate circumstances.

The VA is proposing to amend §§ 36.4340 and 36.4351 to make home improvement loans more available to veterans by making the processing by lenders easier. It is particularly desirable that lenders begin making loans for alteration, improvement, or repairs which assist veterans in home weatherization. these home weatherization loans, which could include loans for solar energy systems, can accomplish the dual purposes of saving America's fossil energy supplies and of lowering veterans' shelter expenses through utility costsavings.

The amendments are proposed under authority granted to the Administrator by section 1803(c)(1) of title 38, United States Code.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until October 11, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: August 23, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 36.4340, paragraph (a) is revised to read as follows:

§ 36.4340 Restriction on designated fee appraisers.

(a) A designated fee appraiser shall not make an appraisal, excepting of alternations, improvements, or repairs to real property entailing a cost of not more than $3,500, if such appraiser is an officer, director, trustee, employer, or employee of the lender, contractor, or vendor.

* * * * *

2. Section 36.4351 is revised to read as follows:

§ 36.4351 Loans, first, second, or unsecured.

Loans for the purchase of real property or a leasehold estate as limited in the regulations concerning quaranty or insurance of loans to veterans, or for the alteration, improvement, or repair thereof, and for more than $1,500 and more than 40 percent of the reasonable value of such property or estate prior thereto shall be secured by a first lien on the property or estate. Loans for such alteration, improvement, or repairs for more than $1,500 but 40 percent or less of the prior reasonable value of the property shall be secured by a lien reasonable and customary in the community for the type of alteration, improvement, or repair financed. Those for $1,500 or less need not be secured, and in lieu of the title examination the lender may accept a statement from the borrower that he or she has an interest in the property not less than that prescribed in § 36.4350(a).

[FR Doc. 78-24698 Filed 8-31-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 958-7]

CALIFORNIA PLAN REVISIONS

Public Availability of Emission Data

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the Clean Air Act, the State implementation plan (SIP) must provide for the periodic reporting of emission data, the accessibility of that data to the public, and the correlation of the emission data with applicable emission limitations. While the California SIP does provide for public access to emission data, portions of the SIP lack the requirement for correlation of information. This notice proposes to correct that deficiency.

DATE: Comments may be submitted up to October 31, 1978. A public hearing will be held upon request.

ADDRESSES: Comments may be sent to Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the docket No. 9A-78-2 are available for public inspection during normal business hours at the following locations:

EPA, Region IX, Library, 215 Fremont Street, San Francisco, Calif. 94105.

California Air Resources Board, 1102 Q Street, P.O. 2815, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wayne A. Blackard, Chief, Air Programs Branch, EPA, Region IX, 415-556-7882.

SUPPLEMENTARY INFORMATION: Under section 110(a)(2)(F) of the Clean Air Act, SIP's must provide for the periodic reporting of emissions data which must be made available to the public and which must be correlated with applicable emission limitations.

On May 31, 1972 (37 FR 10842) EPA approved SIP's, with specific exceptions, for the attainment and maintenance of the the national ambient air quality standards (NAAQS). Included in this approval were provisions that emission data reported must be available to the public. Subsequently, the Agency reviewed these approvals and found that some plans contained confidentiality clauses which could have caused emission data to be withheld from the public. On November 28, 1975 (40 FR 5526) the Agency promulgated § 52.224 (a) and (b) to resolve this problem in California. Section 52.224(a)(1) lists those air pollution control districts (APCD's) that meet all the requirements of 40 CFR section 51.10(e). Section 52.224(a)(2) lists those APCD's which lack only the correlation of emission data requirement in section 51.10(e). Section 52.224(b)(1-4) is the substitute Federal regulation which provides for public availability of emission date.

Upon further review, EPA has determined that several APCD's included in section 52.224(a)(1) lack the provision for correlation of emission data with applicable emission limitations as required in section 51.10(e). This notice proposes to revise section 52.224(a) (1) and (2). Of the 21 APCD's previously approved under section 52.224(a)(1), 18 APCD's are proposed to be deleted from that section. The 18 APCD's do not satisfy all the requirements of section 51.10(e) of this chapter since they lack a provision for correlation of emission data with applicable emission limitations. Section 52.224(b)(4) is proposed to be promulgated for those 18 APCD's.

§ 52.224 [Amended]

Specifically, it is the purpose of this notice to delete the following APCD's from section 52.24(a)(1) and place them in section 52.24(a)(2):

1. Stanislaus County APCD.
2. Fresno County APCD.

3. Calaveras County APCD.
4. Tuolumne County APCD.
5. San Joaquin County APCD.
6. Mariposa County APCD.
7. Tulare County APCD.
8. Kern County APCD.
9. Madera County APCD.
10. Sutter County APCD.
11. Glenn County APCD.
12. Tehama County APCD.
13. Sierra County APCD.
14. Shasta County APCD
15. Sacramento County APCD.
16. Lake County APCD.
17. Ventura County APCD.
18. Monterey Bay Unified APCD.

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

Dated: August 23, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-24665 Filed 8-31-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 956-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Utah SO_2 Control Strategy Change of Public Hearing Date and Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Change of public hearing date and extenion of comment period on the proposed regulation.

SUMMARY: Notice is hereby given that the public hearing scheduled for September 14, 1978, to receive comments on regulations proposed to correct deficiencies in Utah's Implementation Plan, has been rescheduled to September 27, 1978 at 10 a.m. in the State Capitol auditorium in Salt Lake City, Utah. Copies of the proposed regulations (43 FR 35952, August 14, 1978), are available by writing: EPA, Air and Hazardous Materials Division, 1860 Lincoln Street, Denver, Colo. 80295. The docket (8A-78-1) in this matter is available for inspection at the above address as well as at EPA Headquarters, Central Docket Section, 401 M Street SW., Washington, D.C. 20460. Written statements and/or oral comments will be received at the hearing. Written comments may also be submitted in advance of the hearing to: EPA Hearing Officer, 8RC, 1860 Lincoln Street, Denver, Colo. 80295.

DATES: Comments received by October 27, 1978, will be considered in developing the final rule. A public hearing on the proposed actions will be held on Wednesday, September 27, 1978, at 10 a.m.

ADDRESSES: Submit written comments, preferably in triplicate, to the Regional Administrator, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colo. 80295.

The public hearing on the proposed amendments will be held at the State Auditorium, 203 Capitol Building, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT:

Marius J. Gedgandas, 303-837-3711.

Dated: August 22, 1978.

DAVID A. WAGONER,
Director, Air and Hazardous Materials EPA, Region VIII, Denver, Colo.

[FR Doc. 78-24694 Filed 8-31-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 958-8; Docket No. VII-78-DCO-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Iowa Department of Environmental Quality to Clinton Corn Processing Co., Clinton, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Iowa Department of Environmental Quality to Clinton Corn Processing Co. The order requires the company to bring air emissions from its Heil Dryers in Clinton into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP) by July 1, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 2, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, 816-374-2576.

SUPPLEMENTARY INFORMATION: Clinton Corn Processing Co. operates a grain processing plant at Clinton, Iowa. The order under consideration addresses emissions from Heil Dryers Nos. 1, 2, 3, 4, and 5 at the facility, which are subject to subrule 400—4.4(7) Iowa Administrative Code, Grain Handling and Processing Plants. The regulation limits the emissions of particulates, and is part of the federally approved Iowa State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through bringing of new Intensa Dryers Nos. 4, 5, and 6 into steady operation, and by reducing the use of the Heil Dryers in the interim.

The source has consented to the terms of the order. The source has satisfied increments Nos. 1 and 3 contained in the order. Increments 2 and 4 will be met by October 1, 1978. Delay is due to manufacturing and engineering design problems.

Because this order has been issued to a major source of particulates emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. The appropriate elements of subsection 113(d) requiring public notices, public hearing, interim requirements and monitoring requirements are met.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Iowa SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601)

Dated: August 21, 1978.

DAVID R. ALEXANDER,
Acting Regional Administrator, Region VII.

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COMMISSION, DES MOINES, IOWA

In the matter of Clinton Corn Processing Co., Clinton, Iowa; Docket No. 77-A-045, revised.

Whereas, employees of the Department of Environmental Quality conducted an inspection of the Clinton Corn Processing Co. facility in Clinton, Iowa on May 7, 1975, and determined that the emission from the Heil Dryers No. 1, 2, 3, 4, and 5 exceeded the emission standard(s) of subrule 400—4.4(7) IAC

Whereas the said subrule is a part of the federally-approved implementation plan applicable to air quality control region 069 in which the Clinton Corn Processing Co. in Clinton, Iowa, is located:

Whereas Clinton Corn Processing Co. has acknowledged that it is in violation of subrule 400—4.4(7) IAC and has agreed to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and to waive its rights under section 455B.17 of the Iowa Code;

Whereas Clinton Corn Processing Co. is hereby given notice that in the event it fails to meet any requirement of this order, it will be subject to civil penalties for such noncompliance, and that if it fails to achieve final compliance as specified in subparagraph B-5 by July 1, 1979, it shall be required to pay a noncompliance penalty under Section 120 of the Clean Air Act as amended (42 U.S.C. 7420) or under Iowa law subsequently enacted to obtain delegation under that section;

Whereas, after full consideation of relevant facts, including the seriousness of the violation and any good faith efforts to comply, compliance with the order below is reasonable and expeditious;

Therefore, it is ordered, By the Air Quality Commission:

A. That Clinton Corn Processing Co. complete the following acts with respect to bringing Intensa Dryers No. 4, 5, and 6 into steady operation, and thereby removing the Heil Dryers No. 1, 2, 3, 4, and 5 from service at its plant in Clinton, Iowa, on or before the dates specified.

1. June 1, 1978—Complete modifications of the corn germ meal step-system serving the Intensa Dryers.

2. June 1, 1978—Receive the second spare Intensa Dryer fan wheel.

3. June 1, 1978—Complete modifications to scrubbers serving the Intensa Dryers.

4. August 1, 1978—Receive the second spare Intensa Dryer fan motor.

5. September 1, 1978—Complete Intensa Dryer checkout, and remove Heil Dryers No. 1, 2, 3, 4, and 5 from service, and achieve compliance with subrule 400—4.4(7)IAC

B. In case the new CFS feed cooling system is required, Clinton Corn Processing Co. shall comply with the following acts, on or before the dates specified.

1. November 1, 1978—Begin modification of Intensa Dryer conveying equipment.

2. February 1, 1979—complete modification of Intensa Dryer conveying equipment.

3. June 1, 1979—Complete engineering study of Heil Dryer modifications.

4. July 1, 1979—Complete CFS feed cooling system serving Intensa Dryers.

5. July 1, 1979—Remove Heil Dryers No. 1, 2, 3, 4, and 5 from service and achieve final compliance with subrule 4.4(7).

C. That until final compliance as specified in subparagraph A-10 is achieved, Clinton Corn Processing Co. shall comply with the following interim requirements:

The Heil Dryers shall be operated as little as possible.

D. That Clinton Corn Processing Co. shall monitor such emissions and report such information as required by the Executive Director of the Department of Environmental Quality pursuant to Chapter 400—2(455B) IAC

E. That Clinton Corn Processing Co. certify to the Chief of the Surveillance Section of the Air and Land Quality Division of the Department of Environmental Quality no later than seven (7) days after the deadline for completing such increment of progress, whether such increment has been achieved; if an increment has not been achieved by the deadline date, a full report of the reasons why the increment was not achieved and of whether the failure is expected to put the subsequent deadline dates in jeopardy should be submitted.

F. That Clinton Corn Processing Co., 15 days prior to conducting the performance tests required by paragraph B-5, give notice of such scheduled test to the Chief of Surveillance Section to afford him an opportunity to have an observer present.

Dated: July 13, 1978.

HERBERT L. CAMPBELL,
Chairman, Air Quality Commission.

Dated: May 11, 1978.

L. T. LEWIS,
By President, Clinton Corn Processing Co.

[FR Doc. 78-24663 Filed 8-31-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 959-1; Docket No. VII-78-DCO-9]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Iowa Department of Environmental Quality to Clinton Corn Processing Co., Clinton, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by Iowa Department of Environmental Quality to Clinton Corn Processing Co. The order requires the company to bring air emissions from its gluten dust pickup cyclone in Clinton, Iowa, into compliance with certain regulations contained in the federally approved Iowa State Implementation Plan (SIP) by February 15, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 2, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, 816-374-2576.

SUPPLEMENTARY INFORMATION: Clinton Corn Processing Co. operates a grain processing plant at Clinton, Iowa. The order under consideration addresses emissions from the gluten dust pickup cyclone at the facility, which is subject to subrule 400-4.4(7)

Iowa Administrative Code, Grain Handling and Processing Plants. The regulation limits the emissions of particulates, and is part of the federally approved Iowa State Implementation Plan. The order requires final compliance with the regulation by February 15, 1979, by venting emissions from the gluten dust pickup system through an existing bag filter. The source has consented to the terms of the order. The source has satisfied increment No. 1, contained in the order.

Because this order has been issued to a major source of particulates emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. The appropriate elements of subsection 113(d) requiring public notice, public hearing, and monitoring requirements have been met. It has been determined no interim requirements are feasible.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Iowa SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: August 21, 1978.

DAVID R. ALEXANDER,
Acting Regional Administrator, Region VII.

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COMMISSION, DES MOINES, IOWA

In the matter of Clinton Corn Processing Co., Clinton, Iowa; Docket No. 78-A-007.

Whereas, employees of the Department of Environmental Quality conducted an inspection of the Clinton Corn Processing Co. facility in Clinton, Iowa on March 1, 1978, and determined that the emissions from the gluten dust pickup cyclone exceeded the emission standards of subrule 400—4.4(7) IAC.

Whereas the said subrule is a part of the federally-approved implementation plan applicable to air quality control region 069 in which the Clinton Corn Processing Co. in Clinton, Iowa, is located:

Whereas Clinton Corn Processing Co. has acknowledged that it is in violation of subrule 400—4.4(7) IAC and has agreed to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and to waive its rights under section 455B.17 of the Iowa Code;

Whereas Clinton Corn Processing Co. is hereby given notice that in the event it fails to meet any requirement of this order, it will be subject to civil penalties for such noncompliance, and that if it fails to achieve final compliance as specified in subparagraph A-5 by July 1, 1979, it shall be required to pay a noncompliance penalty under section 120 of the Clean Air Act as amended (42 U.S.C. 7420) or under Iowa law subsequently enacted to obtain delegation under that section;

Whereas, after full consideration of relevant facts, including the seriousness of the violation and any good faith efforts to comply, the source cannot immediately comply and compliance with the order below is reasonable and expeditious;

Therefore, it is ordered, By the Air Quality Commission:

A. That Clinton Corn Processing Co. complete the following acts with respect to the gluten dust pickup cyclone at its plant in Clinton, Iowa, on or before the dates specified.

1. August 1, 1978—Submit final control plan.

2. August 15, 1978—Award bids and execute contracts for emissions control equipment.

3. October 15, 1978—Initiate onsite construction or installation of emission control equipment.

4. January 15, 1979—Complete onsite construction or installation of emission control equipment.

5. February 15, 1979—Complete shakedown operations and performance tests on system and achieve final compliance with subrule 400—4.4(7) IAC.

B. That specific interim requirements for emission reduction, prior to final compliance as specified in subparagraph A-5, are not feasible.

C. That Clinton Corn Processing Co. shall monitor such emissions and report such information as required by the Executive Director of the Department of Environmental Quality pursuant to subrule 400—2.1(6) (455B) IAC.

D. That Clinton Corn Processing Co., prior to the initiation of onsite construction or installation of emission control equipment required by paragraph A-3, obtain a permit for the proposed equipment or related control equipment from the Permits Section of the Air and Land Quality Division of the Department of Environmental Quality, as defined in subrule 400—3.1 IAC.

E. That Clinton Corn Processing Co. certify to the Chief of the Surveillance Section of the Air and Land Quality Division of the Department of Environmental Quality no later than seven (7) days after the deadline for completing such increment of progress, whether such increment has been achieved; if an increment has not been achieved by the deadline date, a full report of the reasons why the increment was not achieved and of whether the failure is expected to put the subsequent deadline dates in jeopardy should be submitted.

F. That Clinton Corn Processing Co., 15 days prior to conducting the performance tests required by paragraph A-5, give notice of such scheduled test to the Chief of Surveillance Section to afford him an opportunity to have an observer present.

Dated: July 13, 1978.

HERBERT L. CAMPBELL,
Chairman, Air Quality Commission.

Dated: May 31, 1978.

L. T. LEWIS,
President, Clinton Corn Processing Co.

A public notice was published on June 22, 1978, in the Clinton Herald regarding this order (and the schedule for compliance contained herein), and a public hearing was held before the Iowa Air Quality Commission on July 13, 1978, at the Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa.

[FR Doc. 78-24664 Filed 8-31-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 405 and 449]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED MEDICAL ASSISTANCE PROGRAMS

Protection of Patients' Funds

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would expand the standards for protection of personal funds of medicare and medicaid patients in skilled nursing facilities and intermediate care facilities. The changes are required for skilled nursing facilities by section 21(a) of Pub. L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 and for intermediate care facilities by

section 8(a) of Pub. L. 95-292, the end stage renal disease amendments of 1978. The intent is to curtail the reported misuse of patient funds and assure that personal funds are fully accounted for and made available to patients when they need them.

DATE: Consideration will be given to written comments received by October 31, 1978.

ADDRESSEES: Please address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013. In commenting, please refer to file code HSQ-45-P. Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., 202-245-0950.

FOR FURTHER INFORMATION, CONTACT:

Mr. Benjamin Latt, 301-443-3346.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A medicare or medicaid patient entering a long term care facility normally turns his personal funds over to the facility to hold and manage until needed for personal use. Sometimes these funds include a personal needs allowance sent to the patient monthly under the supplementary security income (SSI) program (Title XVI of the Social Security Act).

Current HCFA regulations have not provided adequate protection of these funds (see 42 CFR 449.12(a)(1)(iii) and 405.1121(k)(6).)

Investigations by the General Accounting Office, the Senate Committee on Aging, and some States have revealed serious cases in which patients' funds were misused or not properly accounted for. (See Sen. Report 95-453, page 42.)

STATUTORY AMENDMENTS

In view of the problems noted above, the Congress amended the medicare statute to require SNF's to establish and maintain a system of full and complete accounting of their patients' personal funds. (See section 21(a) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142).) It also amended the medicaid statute to place the same requirements on ICF's. (See section 8(a) of the End Stage Renal Disease Program Amendments (Pub. L. 95-292) enacted June 13, 1978.) These amendments also preclude commingling of patients' funds with facility funds or with those of any persons except other patients in the facility.

In addition, sections 21(b) of Pub. L. 95-142 and 8(c) of Pub. L. 95-292 require that HEW define the costs that may be charged to the personal funds of the patients in long term care facilities.

PROPOSED RULE

This proposal, which implements sections 21(a) and 8(a), would establish the requirements for protecting the personal funds of medicare patients in SNF's and medicaid patients in SNF's and ICF's. Since medicare standards for SNF's are applicable to medicaid (see sec. 1902(a)(28) of the act) the pertinent medicare regulations would be incorporated by reference in medicaid regulations. Since services provided by ICF's are covered under medicaid but not under medicare rules applicable to ICF's appear only in the medicaid regulations.

The proposed rule would impose several requirements on SNF's and ICF's, designed to inform patients of their rights, to prevent misuse of patients' funds given to the facility for safekeeping or management, and to provide documentation that adequate measures have been taken to protect patients' funds.

A long-term care facility's initial obligation would be to provide an incoming patient with an explanation of the patient's rights regarding personal funds. The facility would also have to provide the patient with a list of the services which are included in the basic per diem rate, or otherwise provided by the facility, for which no charge may be assessed against the patient or his personal account.

A patient is not required to give his funds to a long-term care facility for safekeeping, but if he requested this of the facility, and provided a written authorization, the facility would be required to accept this responsibility. The facility would have to deposit all funds in excess of $50 in an interest bearing account. Lesser amounts could be maintained in a noninterest bearing account, or in a petty cash fund, to keep them more readily available for the day-to-day use of the patient. The facility would be required to keep a written record of all financial arrangements and transactions involving the patient's funds and allow the patient access to that record. In addition, the facility would be required to provide the patient with an itemized statement of his account at least quarterly.

The proposed rule would require the facility to obtain a surety bond, in order to protect the patients from any misuse of their funds. It would also preclude the facility from making any unauthorized use of any personal needs allowance which a patient might receive under the supplemental security income program or from any other source. It also contains measures to protect the account of a patient who dies or becomes incapable of managing his own affairs.

A facility would be required to notify the patient and the State medicaid agency if the account of a medicaid patient grows to the extent that it appears a question might be raised about the patient's continued eligibility for medicaid. This provision is designed to deal with a problem that has frequently arisen when a patient's monthly needs allowance is routinely placed in his personal account and the accumulated savings eventually reaches the point at which the patient's eligibility for medicaid is jeopardized. The regulation would not prescribe any further action to be taken by the patient, the facility, or the medicaid agency. Although this provision is not directly related to protecting the patient's funds, it is an important matter that seems best dealt with in this regulation.

The proposed rule would also require that the State medicaid plan provide for an audit to make sure that a long-term care facility is meeting its obligations for safekeeping and managing patient funds. This would be done simply by amending the existing audit provisions in § 450.30(a)(3)(ii) of the medicaid regulations.

IMPLEMENTATION OF SECTIONS 21(B) AND 8(C)

In our view, our current regulations adequately implement the requirements of sections 21(b) and 8(c) that we define what costs can be charged to patient funds. The medicare regulations specify the items that may not be charged to a SNF patient (42 CFR 405.607-405.612). The medicaid regulations set forth the items that are covered by the medicaid payment to an ICF and specify that the facility must accept the medicaid payment as payment in full (42 CFR 450.30(a) (3) and (8)). Therefore, we are not proposing any regulation on this point. Under the proposed rule implementing sections 21(a) and 8(a), SNF's and ICF's would be required to inform patients what services may not be charged to their personal accounts. (See § 405.1121(m)(1) and § 449.12(1)(iii)(A).)

42 CFR, Chapter IV, is amended as set forth below:

1. Section 405.1121 is amended by revising paragraph (k)(6) and adding a new paragraph (m) to read as follows:

§ 405.1121 Conditions of participation—governing body and management.

* * * * *

(k) *Standard: Patients rights.* * * *

(6) May manage his personal financial affairs or may authorize the facility in writing to manage his personal financial affairs in accordance with paragraph (m) of this section.

* * * * *

(m) *Standard: Protection of patient funds.* The facility must:

(1) At the time of admission, provide each patient, or his next of kin or legal guardian, with a written statement explaining the patient's rights regarding personal funds and listing the services for which the patient will be charged, and obtain a signed acknowledgement from each patient that he has received the statement;

(2) Accept funds from a patient for safekeeping and managing, if it receives written authorization from the patient or his legal guardian;

(3) Maintain, and allow each patient access to, a written record of all financial arrangements and transactions involving the individual patient's funds;

(4) Provide each patient, his next of kin of legal guardian a written itemized statement at least quarterly, of all financial transactions involving the patient's funds;

(5) Purchase a surety bond to guarantee the security of patient's funds;

(6) Keep any funds received from a patient for safekeeping in an account separate from the facility's funds;

(7) Deposit any funds received from a patient in excess of $50 in an interest bearing account insured by the Federal Deposit Insurance Corporation. The account must be in a form which clearly indicates that the facility has only a fiduciary interest in the funds. The facility may keep up to $50.00 of a patient's money in a non-interest bearing account or petty cash fund, to be readily available for the patient's current expenditures;

(8) Return to the patient, upon request, all or any part of the patient's funds given the facility for safekeeping, including the interest accrued from deposits;

(9) Place any monthly allowance to which a patient is entitled in that patient's personal account, or give it to the patient, unless the facility has a written authorization from the patient or his legal guardian to handle it differently;

(10) Unless otherwise provided by State law, upon the death of a patient, provide the executor or administrator of the patient's estate with a complete accounting of all the patient's personal property, including any funds of the patient being held by the facility;

(11) If a patient is incapable of managing his funds and does not have a legal guardian, notify all benefit paying agencies from which the patient is receiving benefits, and either: (i) Institute a proceeding, in accordance with State law, for the appointment of a guardian, conservator, or committee; or (ii) unless otherwise provided by State law, obtain a physician's written certification of a patient's incapacity and maintain the patient's funds in a trust account. The facility may, without consent of the patient, charge to the trust account the cost of purchases made on behalf of the patient (for which the facility is entitled to be reimbursed) and substantiated by bills or receipts properly filed as a part of the patient's personal account and may release the patient's monthly allowance to a spouse or next of kin;

(12) If the facility is sold, provide the buyer with a written verification by a public accountant of all patients' moneys and properties being transferred, and obtain a signed receipt from the new owner;

(13) If a patient is a medicaid or supplemental security income recipient, notify the patient and the State medicaid agency if the patient's funds under its control are about to exceed the amount which would jepordize the patient's eligibility.

2. Section 449.12 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 449.12 Standards for intermediate care facilities.

(a) The standards for an intermediate care facility (as defined in § 449.10(b)(15)) which are specified by the Secretary pursuant to section 1905 (c) and (d) of the Social Security Act and are applicable to all intermediate care facilities are as follows: The facility:

(1) Maintains methods of administrative management which assure that:

* * * * *

(iii) The facility complies with the requirements specified in § 405.1121(m) of this chapter with respect to safekeeping and managing patients' funds.

§ 450.30 [Amended]

3. Section 450.30(a)(3)(ii) is amended by adding a new paragraph (H), to read as follows:

(a) *State plan requirements.* * * *

(3) * * *

(ii) * * *

(H) Provide for an audit to determine whether a skilled nursing facility or intermediate care facility is complying with the requirements of §§ 405.1121 and 449.12(a)(1)(iii) of this part, regarding protection of patients' funds.

(Sec. 1102, 1861(j) and 1905(c) of the Social Security Act (42 U.S.C. 1302, 1395(j) and 1396d(c)); Catalog of Federal Domestic Assistance Program 13,714—Medical Assistance Program; 13.773 Medicare—Hospital Insurance.)

Dated: July 17, 1978.

ROBERT A. DERZON,
Administrator,
Health Care Financing
Administration.

Approved: August 24, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-24745 Filed 8-31-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 344]

TRANSPORTATION OF NON-PERISHABLE COMMODITIES

Terminal Performance Standards; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: The notice of proposed rulemaking published in the FEDERAL REGISTER at 43 FR 33774 on August 1, 1978, is corrected to identify the appropriate and applicable authority under which the Commission instituted this rulemaking proceeding. The correction is set forth under "Supplementary Information."

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7693.

SUPPLEMENTARY INFORMATION: At 43 FR 33775, column 1, the second full paragraph, beginning with "The notice * * *" through "* * * on June 19, 1978.", is corrected to read as follows:

"The notice of proposed rulemaking is promulgated pursuant to authority under 5 U.S.C. sections 553 and 559; under 49 U.S.C. sections 1(4), 1(10), 1(11), 1(13), 1(15), 12(1)(a), 13 and 15; and under the provisions of the national transportation policy, 49 U.S.C. preceding section 1. The notice of proposed rulemaking was adopted formally at a general session of the Interstate Commerce Commission on June 19, 1978."

Issued at Washington, D.C., August 24, 1978.

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

[FR Doc. 78-24748 Filed 8-31-78; 8:45 am]

[7035-01]

[49 CFR Parts 1307, 1309, 1310]

[Ex Parte No. 354]

ADDITIONAL CHARGES OF MOTOR CARRIERS AND FORWARDERS

Proposed Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to consider the propriety of the practices of motor common carriers of property and freight forwarders in publishing and collecting additional charges for which no additional services are performed. New rules are proposed to govern these practices. By this notice we are seeking public comment on these practices and on the proposed rules.

DATES: Comments are due October 31, 1978.

ADDRESS: Send comments to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Martin E. Foley, 202-275-7348.

SUPPLEMENTARY INFORMATION: This proceeding is instituted upon our own motion. We intend to consider the propriety of the practices of the Nation's motor common carriers of property and freight forwarders in publishing and collecting additional transportation charges for which no additional transportation service is performed. We will also determine if new rules are necessary to govern or prohibit current practices.

Fundamental to the concept of common carriage is the principle that a transportation rate or charge can only be collected as compensation for performing a transportation service. If no service is performed, no charge is warranted. It follows, then, that an additional charge may not be assessed unless an additional service is actually rendered.

The services to be performed by regulated carriers and forwarders must also be identified in their tariffs. Sections 217 and 405 of the Interstate Commerce Act require motor common carriers of property and forwarders to file tariffs with the Commission showing all their rates, charges, services, and privileges. The purpose of this is to assure public knowledge of the rates to be charged by carriers for services rendered. This purpose cannot be served merely by stating the amount of the charge, unless the specific service or privilege covered by that charge is described.

However, the tariffs of motor common carriers of property and freight forwarders on file with this Commission are replete with additional charges for which no discernible service is offered in return. These charges are usually designated as "arbitraries," "additional pickup and delivery charges," or simply as "additional charges." Some are stated in flat amounts per hundredweight or per shipment; others are stated in class rate form. Some apply only on less than truckload (LTL) shipments; others apply on both LTL and truckload shipments. All of them apply to selective points only, and all of them are published to apply in addition to already-existing rates and charges. The publication of these charges appears to have created, in effect, a vast but haphazard network of "surecharges" a second charging for a portion of the line-haul service already covered by the line-haul rate.

The surcharge method of ratemaking has historically been condemned by this Commission because it (1) disrupts the rate structure; (2) creates unjust discrimination and undue prejudice; and (3) tends unnecessarily

to complicate tariffs. See, for example, *Surcharge on Small Shipments within Central States*, 63 MCC 157, 196–198. This is particularly true of surcharges (published under whatever name) which apply only to selective points and which ignore classification, distance, and other basic cost-related ratemaking factors. *Arbitrary Charge on Shipments from GA. to FLA.*, 335 ICC 209; *LTL Arbitraries from and to point in Minnesota*, 309 ICC 527; *Arbitraries, Freeport Fast Freight, Inc.*, 308 ICC 795.

BACKGROUND

The Commission has traditionally defined an arbitrary rate or charge as "the amount added to the base rate for the haul from the base point to actual destination." The phrase "for the haul" clearly indicates that an arbitrary is to be an extra charge for an extra service—i.e., a device to make a rate where none exists. Under the grouping method of ratemaking used by motor common carriers and forwarders, almost all points are provided with a ready-made rate. Thus, existing arbitraries, additional pickup and delivery charges, and additional charges are used primarily to supplement those rates.

These supplementary charges first began to appear on a wholesale (but selective) basis in the late 1950's and early 1960's. In those days the Commission's consumer tariff examining units had not yet been established, the "small shipment problem" has not yet been generally recognized, general increases were taken less frequently than in recent years, and the shipping public had as yet failed to recognize the cumulative effect of these charges on the rate structure. As a result, these proposals were rarely protested or considered for suspension on the Commission's own motion, and the attachment of additional charges to rural, suburban—and even urban—points became an accepted and established method of motor carrier ratemaking.[1] Since motor carriers provide the underlying pickup and delivery service for freight forwarders outside their terminal areas, forwarders, soon followed suit with a surcharge network of their own.

Since the early 1970's, however, proposals to add these charges have consistently been challenged by protestants and by the Commission on its own motion. During the period from 1971 through 1977, almost 80 percent of the challenged proposals were suspended.

This increased vigilance, while substantially reducing the number of new surcharges being published, has had no effect on those already existing. Tariffs of motor carriers and forwarders still contain thousands of arbitraries, additional pickup and delivery charges, and additional charges for which no discernible service is offered in return. In the tariffs of at least one motor carrier rate bureau, more than 20 percent of the total number of points served by its participating carriers are subject to an arbitrary charge. Moreover, these charges do not appear to be based on any rational, cost-based ratemaking system. For example, the proportion of arbitraries to the total number of points served in Iowa is approximately 90 percent. The same is true for Kansas and South Dakota. This may seem logical, at first glance, in view of the carriers' historic justification for these charges—i.e., that they are necessary to defray the cost of service to rural communities. But how do we account for the fact that the proportion of arbitrary points to total points served in Nebraska, Indiana, Ohio, Arkansas and Texas is under 5 percent?

Nor does the logic become any clearer when the field of scrutiny is narrowed. For example, the tariffs of another bureau publish arbitrary charges against certain suburban communities surrounding Washington, D.C. But these charges are applicable only on selected traffic. A shipment moving from Chicago, Ill. to Falls Church, Va., would be subject to the arbitrary charge, but a shipment from Dallas, Tex., or Des Moines, Iowa, to Falls Church would not. A shipment from Falls Church to St. Louis, Mo., would be subject to it; a shipment from Falls Church to Kansas City, Mo., would not.

Complaints received by the Commission's Bureau of Traffic indicate that the maintenance of these charges throughout the country causes a severe financial burden on the shipping public and is a constant source of irritation and frustration to the tariff user. Extracts from some typical complaints are printed below:

IOWA

"What is the basis for an arbitrary? * * * we are required to pay an arbitrary charge into Jamaica, NY, and I have yet to find someone who can give me a good answer as to why this is."

SOUTH CAROLINA

"Another matter that is costing merchants at Myrtle Beach several thousands of dollars each year is an 'arbitrary' charge by the several different freight lines that serve our area."

MARYLAND

"We feel that these surcharges (which are 50 percent of the original charge on pro PHL–085423 and 30 percent of the original charge on pro NYC–278325) are quite excessive and we question their legality."

VIRGINIA

"We operate a business out of our residence, but have a Retail Merchant's License at the address. ARB charges totaled over $700.00 last year * * *."

MISSOURI

"We have been quoted freight rates from Postville, Iowa to St. Louis, Mo. that include an arbitrary charge of from $2.78 on the minimum to 29 cents cwt on 10,000 pounds. When the arbitrary charge is added to the freight rate, it costs more than the rate from LaCrosse, Wis. to St. Louis.

"We do not understand this, especially when so many trucks are running right through Postville on U.S. Highway 18 and 52, and Postville is closer to St. Louis than LaCrosse!"

IOWA

"Why is it that throughout the country one town will have an arbitrary charge and another town in the same area and about the same size will not!

"Examples of this can be found in the tariffs where an arbitrary charge is assessed on freight under 2,500 lbs. to the city of Oelwein, Iowa, population 7,735; and no arbitrary charge is assessed for the city of Waverly, Iowa, population 7,351. An arbitrary charge is assessed for the city of New Hampton, Iowa, but no charge is assessed on Charles City, Iowa, which is located only 11 miles from New Hampton on the same highway * * *

"Shouldn't these arbitrary charges be periodically reviewed and dropped where communities develop sufficient industry and growth, thus giving equal treatment to all communities?"

WASHINGTON, D.C.

"* * * receiving a shipment of 4,999 pounds would cost us (in arbitrary charges) $95.48 and 954 pounds $18.22! Enough is enough and this is too much! On a shipment, paying drayage of $10.00 and an arbitrary charge of $5.00, this is 50 percent of our total bill * * *

"We are located on a highly traveled main street which goes directly to the Beltway, where there is no highway construction, no parking problem, and nothing to cause any delay in delivery."

Because nearly all of the additional charges complained of in the letters we receive are lawfully published in the carriers' tariffs, our informal efforts to help these complainants have met with little success. Attempts to ne-

[1] Additional charges of motor common carriers of household goods are primarily published against major urban and suburban areas.

gotiate with carriers and rate bureaus for the removal of the charges have almost always failed. Carriers are adamant in their refusal to forgo the revenues derived from these charges, and they are equally adamant in their refusal to change the method of publication used to generate these revenues.

THE PROPOSED RULEMAKING

The purposes of the proposed rulemaking proceeding are: (1) To insure that motor common carrier and freight forwarder rate structures are logical and equitable; (2) to further the Commission's goal of tariff simplification, and (3) to affirm its commitment to the protection of consumers and small businesses. It is designed to implement the national transportation policy objectives of promoting safe, adequate, economical and efficient service and encouraging the establishment and maintenance of reasonable charges for transportation services, without unjust discrimination, undue preference of advantages.

Our investigation, among other things, will seek to determine: (1) The propriety of adopting the proposed regulations set forth in the appendix to this notice; (2) whether the removal of all existing tariff provisions inconsistent with those regulations is warranted; and (3) whether this Commission should take other action as the facts developed in this investigation may justify or require.

Specifically, the rules proposed in appendix A would:

(1) Prohibit rates and charges which do not clearly identify the service or privilege to be rendered in return;

(2) Prohibit the use of arbitrary charges as a device to supplement class rates; and

(3) Ensure that class rates for linehaul service between named points include the performance of pickup and delivery service.

The proposed rules would not prohibit the use of arbitraries in connection with commodity rates. These rates are normally lower than class rates, and they are, for the most part, negotiated between shippers and carriers. Therefore, we prefer to treat commodity rates differently unless the comments received demonstrate a need to do otherwise. Arbitraries established to apply on commodity rates will, however, be required to be published in the commodity rate tariff itself. Present regulations allow their publication in a separate tariff.

We are aware that the proposed requirement for class rates to include pickup and delivery service appears to be inconsistent with the "Small Shipment Provision" (49 CFR 1307.51 and 49 CFR 1310.34) recently adopted in Ex Parte No. MC 98, *New Procedures in Motor Carrier Restructuring Proceedings*. That provision, which authorizes carriers and bureaus to publish separate rates and charges for pickup service, has now been stayed pending consideration of further comments. More importantly, it applies only when carriers or bureaus voluntarily elect to publish a "Small Shipments Tariff," applicable only to shipments of less than 500 pounds. For those who do elect to publish such a tariff (if and when the small shipment rule goes into effect), the proposed requirement for class rates to include pickup service will not apply.

The proposed regulations for motor common carriers in the appendix would amend both part 1307 and 1310 of title 49 of the Code of Federal Regulations. While part 1307 will soon be superseded by part 1310 (which became effective on October 5, 1977), carriers may file under either the old or new regulations for the first year. This is necessary to permit an orderly transition.

Participants in this proceeding should address the following matters:

(1) What is the financial impact upon the shipping public of additional charges for which no additional service is performed?

(2) Are such charges cost-justifiable?

(3) Do they tend to create unjust discrimination and undue prejudice?

(4) If they are shown to be cost-justifiable and nondiscriminatory, should they be allowed in their present form or be absorbed into the rate structure to facilitate tariff simplification?

(5) If such charges are found to be unlawful and the regulations adopted, should all existing provisions inconsistent with those regulations be removed from the tariffs?

(6) If so, how should this be effected?

(7) If a general rule against arbitraries, etc. is adopted, how can a carrier provide for legitimate cost-based higher charges for service at high-cost areas? Should exceptions be made when cost justification exists? [2]

(8) What would be the impact of such a rule on service at small communities? Could the cost inefficiencies historically connected with this service be significantly reduced by the use of the "convenience interlining" practice recently authorized by the Commission in docket 36563, *Carrier Convenience in Effecting Joint Line Interchange*, served August 22, 1977 (not printed)?

(9) What effect would such a rule have on the carrier and forwarder industries? Would the small carrier be disproportionately affected? Would the rule necessitate a general revision of divisional agreements between carriers; and, if so, would that be inappropriate?

The proposed rulemaking does not appear to constitute a major Federal action requiring preparation of an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq. However, comments regarding environmental issues, if any, should be included in statements filed with the Commission in response to this notice.

Interested persons are invited to file an original and 15 copies (if possible) of their views and comments at the dates and places noted above.

This notice of proposed rulemaking is issued pursuant to sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and sections 204(a)(6); 208(a); 216 (b); (d), and (i); 217(a); 403 (a) and (f); 404 (a) and (b); 405(a); and 406 (b) and (d) of the Interstate Commerce Act (49 U.S.C. 304(a)(6); 308(a); 316 (b); (d), and (i); 317(a); 903 (a) and (f); 904 (a) and (b); 905(a) and 906 (b) and (d).

The Bureau of Investigations and Enforcement of this Commission is authorized and directed to participate in this proceeding.

Dated: August 16, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham and Clapp.

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

APPENDIX

PROPOSED RULES

We propose to amend chapter X, subchapter D, of title 49 of the Code of Federal Regulations, as follows:

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS OF MOTOR CARRIERS

§ 1307.28 [Amended]

1. By deleting the sixth sentence of § 1307.28(a)(4), which now reads: "Nor does this rule serve to prohibit publications of class rate arbitraries under authority of paragraph (b) of this section."

2. By revising § 1307.28(b) to read as follows:

* * * * *

(b) *Arbitraries.* A tariff may provide rates (other than class rates) from or to designated points by the addition of arbitraries to rates (other than class rates) from or to named base points. Provisions for this shall be shown only in the rate tariff itself, either by publication of the arbitrary within the affected rate item or by reference in the rate item to a separate item in the

[2] Exceptions ratings higher than class are an abnormality and must be specifically justified. See *Rules Governing Publication of Exceptions Ratings*, 351 ICC 716.

tariff. Arbitraries, or any provision for addition (or subtraction) of any amounts, may not be published to construct rates to apply from or to the base point itself, or to differentiate between commodities, not may any tariff provision be made for accrual of the charges to a certain carrier to carriers, or for division of the revenue between carriers. Except as otherwise authorized, a tariff may not provide rates from or to designated points by the addition of arbitraries to class rates.

§ 1307.35 [Amended]

3. By amending § 1307.35(a) to add a new sentence at the end thereof, reading as follows: "A tariff may not contain charges designated merely as "additional charges" or words of like import which do not clearly identify the service or services to be rendered in return for those charges."

4. By revising § 1307.35(d)(1) to read as follows:

* * * * *

(d) *Pickup and delivery service*—(1) *General.* (i) Except as otherwise specifically authorized by this Commission, all class rates for the transportation of property must include pickup and delivery service within the limits of the points from, to, or between which the rates are named. The tariff or tariff section containing class rates must contain the following notice:

The class rates named in this tariff include pickup and delivery service at all places within the limits of the cities, towns, villages, or other points from, to, or between which the rates apply.

No exceptions, references to exceptions, or qualifying provisions may be appended to this notice; and class rates may not be further subjected, except as otherwise authorized, to any additional transportation charges for which no additional service is performed.

(ii) All tariffs containing rates (other than class rates) for the transportation of property shall specify whether the rates include pickup and delivery service within the limits of the points from, to, or between which the rates are named. If the rates do include these services, the following rule must be published in the rate tariff (not a governing tariff):

The rates named in this tariff include pickup and delivery service at all places within the limits of the cities, towns, villages, or other points from, to, or between which the rates apply.

To this rule may be appended exceptions or references to exceptions or qualifying provisions elsewhere in the tariff (not a governing tariff). If there are to be limitations to, or exclusions from, the service of pickup or delivery, they must be specifically and clearly stated.

(iii) If pickup and delivery service will be performed also in an area beyond or outside the limits of the cities, towns, or villages, from, to, or between which the rates apply, the larger area shall be described in the tariff.

(iv) Unless the tariff specifically provides otherwise, pickup service includes loading by the carrier onto the vehicle, and delivery service includes unloading by the carrier from the vehicle. Conflicts must be avoided when establishing rates specifically excluding loading and unloading by the carrier where there are other rates which, being silent on the matter, apply regardless of who loads and unloads.

5. By revising § 1307.38(b) to read as follows:

§ 1307.38 Rate basis books.

* * * * *

(b) *Order of arrangement.* Rate basis books must conform to the following requirements. They shall not contain rules for application of bases or rates at intermediate points. The name of the carrier serving each point shall be shown, and either the points shall be arranged in alphabetical order or the publication shall contain an index as provided in § 1307.27(d). Exceptions to the rate group or rate basis should not be made in rate basis books, unless the exceptions apply to or from a considerable number of points or on a considerable number of commodities.

* * * * *

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

6. By revising § 1309.1 to read as follows:

§ 1309.1 Form, publication and filing.

Tariffs of freight forwarders authorized and required by the provisions of section 405 of the Interstate Commerce Act shall be constructed, published, and filed in accordance with the regulations which have been or may be adopted and promulgated in Tariff Circular No. 20 (see part 1300 of this chapter) except as specifically provided in this part.

7. By adding §§ 1309.7 and 1309.8 to read as follows:

§ 1309.7 Arbitraries and additional charges.

(a) *Arbitraries.* A tariff may provide rates (other than class rates) from or to designated points by the addition of arbitraries to rates (other than class rates) from or to named base points. Provision for this shall be shown only in the rate tariff itself, either by publication of the arbitrary within the affected rate item or by reference in the rate item to a separate item in the tariff. (The authority in § 1300.15 of this chapter to include provisions for arbitraries in rate basis books shall not be applicable for freight forwarders.) Arbitraries, or any provision for addition (or substraction) of any amounts, may not be published to construct rates to apply from or to the base point intself, or to differentiate between commodities. A tariff may not provide rates from or to designated points by the addition of arbitraries to class rates.

(b) *Additional charges.* A tariff may not contain charges designated merely as "additional charges" or words of like import which do not clearly identify the service or services to be rendered in return for those charges.

1309.8 Pickup and delivery service.

(a) *Class rates.* Except as otherwise specifically authorized by this Commission, all class rates for the transportation of property must include pickup and delivery service within the limits of the points from, to, or between which the rates are named. The tariff or tariff section containing class rates must contain the following notice:

The class rates named in this tariff include pickup and delivery service at all places within the limits of the cities, towns, villages, or other points from, to, or between which the rates apply.

No exceptions, references to exceptions, or qualifying provisions may be appended to this notice; and class rates may not be further subjected, except as otherwise authorized, to any additional transportation charges for which no additional service is performed.

(b) *Other than class rates.* All tariffs containing rates (other than class rates) for the transportation of property shall specify whether the rates include pickup and delivery service within the limits of the points from, to, or between which the rates are named. If the rates do include these services, the following rule must be published in the rate tariff (not a governing tariff):

The rates named in this tariff include pickup and delivery service at all places within the limits of the cities, towns, villages, or other points from, to, or between which the rates apply.

To this rule may be appended exceptions or references to exceptions or qualifying provisions elsewhere in the tariff (not a governing tariff). If there are to be limitations to, or exclusions from, the service of pickup or delivery, they must be specifically and clearly stated.

(c) *Extended service.* If pickup and delivery service will be performed also in an area beyond or outside the limits of the cities, towns, or villages, from, to, or between which the rates apply, the larger area shall be described in the tariff.

(d) *Loading and unloading.* Unless the tariff specifically provides otherwise, pickup service includes loading by the carrier onto the vehicle, and delivery service includes unloading by the carrier from the vehicle. Conflicts must be avoided when establishing rates specifically excluding loading and unloading by the carrier where there are other rates which, being silent on the matter, apply regardless of who loads and unloads.

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

8. By revising § 1310.7(b) and amending the sixth sentence of § 1310.7(r) to read as follows:

§ 1310.7 Statement of rates (Rule 7).

* * * * *

(b) *Arbitraries.* A tariff may provide rates (other than class rates) from or to designated points by the addition of arbitraries to rates (other than class rates) from or to named base points. Provision for this shall be shown only in the rate tariff itself, either by publication of the arbitrary within the affected rate item or by reference in the rate item to a separate item in the tariff. Arbitraries, or any provision for addition (or subtraction) of any amounts, may not be published to construct rates to apply from or to the base point itself, or to differentiate between commodities, nor may any tariff provision be made for accrual of the charges to a certain carrier or carriers, or for division of the revenue between carriers. Except as authorized by § 1310.7(p), a tariff may not provide rates from or to designated points by the addition of arbitraries to class rates.

* * * * *

(r) * * * Nor does this rule serve to prohibit publications of class rate arbitraries under authority of paragraph (p) of this section. * * *

§ 1310.15 [Amended]

9. By amending § 1310.15(a)(1) to add a new sentence at the end of that section, reading as follows: "A tariff may not contain charges designated merely as 'additional charges' or words of like import which do not clearly identify the service or services to be rendered in return for those charges."

10. By revising § 1310.15(d) to read as follows:

* * * * *

(d) *Pickup and delivery service.* (1) Except as otherwise specifically authorized by this Commission, all class rates for the transportation of property must include pickup and delivery service within the limits of the points from, to, or between which the rates are named. The tariff or tariff section containing class rates must contain the following notice:

The class rates named in this tariff include pickup and delivery service at all places within the limits of the cities, towns, villages, or other points from, to, or between which the rates apply.

No exceptions, references to exceptions, or qualifying provisions may be appended to this notice; and class rates may not be further subjected, except as otherwise authorized, to any additional transportation charges for which no additional service is performed.

(2) All tariffs containing rates (other than class rates) for the transportation of property shall specify whether the rates include pickup and delivery service within the limits of the points from, to, or between which the rates are named. If the rates therein do include these services, the following rule must be published in the rate tariff (not a governing tariff):

The rates named in this tariff include pickup and delivery service at all places within the limits of the cities, towns, villages, or other points from, to, or between which the rates apply.

To this rule may be appended exceptions or references to exceptions or qualifying provisions elsewhere in the tariff (not a governing tariff). If there are to be limitations to, or exclusions from, the service of pickup or delivery, they must be specifically and clearly stated.

(3) If pickup and delivery service will be performed also in an area beyond or outside the limits of the cities, towns, or villages, from, to, or between which the rates apply, the larger area shall be described in the tariff.

(4) Unless the tariff specifically provides otherwise, pickup service includes loading by the carrier onto the vehicle, and delivery service includes unloading by the carrier from the vehicle. Conflicts must be avoided when establishing rates specifically excluding loading and unloading by the carrier where there are other rates which, being silent on the matter, apply regardless of who loads and unloads.

11. By revising § 1310.18(c) to read as follows:

§ 1310.18 Rate basis tariffs (Rule 18).

* * * * *

(c) *Rate group or rate basis exceptions.* The applicable rate group or rate basis shall be shown directly with each point, except that reference may there be made to an item or unit showing such information. Exceptions to the rate group or rate basis shall not be made in rate basis tariffs, unless exceptions apply to or from a considerable number of points or on a considerable number of commodities.

* * * * *

[FR Doc. 78-24747 Filed 8-31-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 652]

ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Extension of Surf Clam Vessel Moratorium

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Announcement of public hearing.

SUMMARY: A public hearing will be held by the National Marine Fisheries Service (NMFS), Northeast Region, to solicit comments on extending the surf clam moratorium presently in effect in the Atlantic surf clam fishery.

DATES: The hearings will be held on September 14 and 18, 1978. See Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Pursuant to section 305 of the Fishery Conservation and Management Act of 1976, U.S.C. 1801 et seq. final regulations were published on February 17, 1978 (43 FR 6952), to implement the fishery management plan prepared by the Mid-Atlantic Fishery Management Council for the surf clam and ocean quahog fisheries. Section 652.9 of those regulations prohibits the entry of additional vessels into the surf clam fishery until November 16, 1978.

Notice is hereby given that public hearings will be held to consider the extension of this moratorium. The locations, dates, and time of these hearings are as follows:

Place: Golden Eagle Motor Lodge, Philadelphia Avenue and Beach Drive, Cape May, N.J. Date: September 14, 1978. Time: 7:30 p.m.

Place: White's Restaurant, 66 State Road, Westport, Mass. Date: September 18, 1978. Time: 7:30 p.m.

Comments on extending the moratorium and the transfer of surf clam vessel permits will be received at these hearings. Written comments may be sent to the Regional Director at the address set out above on or before October 13, 1978.

Signed at Washington, D.C., this 28th day of August 1978.

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

[FR Doc. 78-24701 Filed 8-31-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

CAJUN ELECTRIC POWER COOPERATIVE, INC.

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has issued a draft environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Cajun Electric Power Cooperative, Inc., P.O. Box 578, New Roads, La. 70760.

The anticipated financing assistance would provide Cajun with the financing required to construct a third unit at the cooperative's Big Cajun No. 2 plant. The 540 MW (net) coal-fired steam electric generating unit would be similar to the two units presently under construction at that plant, located at New Roads, La.

Additional information may be obtained from Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are invited from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, State and local agencies which are authorized to develop and enforce environmental standards, and the public.

Copies of the REA draft environmental impact statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. The draft environmental impact statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW, Washington, D.C., Room 4314, or at the headquarters of Cajun Electric Power Cooperative whose address is given above.

Comments concerning the environmental impact of REA's proposed action must be received by October 31, 1978, to be considered in connection with the proposed financing assistance.

Any financing assistance by REA pursuant to these applications will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 25th day of August 1978.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc. 78-24629 Filed 8-31-78; 8:45 am]

[3410-16]

Soil Conservation Service

BEAR LAKE COUNTY PARK WATER-BASED RECREATION R.C. & D. MEASURE, WASHINGTON

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bear Lake County Park Water-Based Recreation R.C. & D. Measure, Spokane County, Wash.

The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Galen S. Bridge, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for providing a functional day-use recreation facility for the residents of northern Spokane County, Wash. The planned works of improvement include a picnic shelter with associated tables, combination restroom/bathhouse facilities, a pipeline to provide water, a combination tennis/basketball court, a softball field, a permanent irrigation system, and revegetation measures.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Galen S. Bridge, State Conservationist, Soil Conservation Service, 360 U.S. Courthouse, West 920 Riverside Avenue, Spokane, Wash. 99201, telephone 509-456-3711. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Admnistrator for Land Resources Soil Conservation Service.

[FR Doc. 78-24703 Filed 8-31-78; 8:45 am]

[3410-16]

BRODHEAD ELEMENTARY SCHOOL LAND DRAINAGE R.C. & D. MEASURE, KENTUCKY

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Brodhead Elementary School Land Drainage R.C. & D. Measure, Rockcastle County, Ky.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Glen E. Murray, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measure concerns a plan for installing a subsurface drainage system in the Brodhead Elementary School recreation area. The planned works of improvement include tile drainage, necessary outlet structures, and reseeding all disturbed areas.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Ky. 40504, telephone 606-233-2749. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until on or before October 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-24704 Filed 8-31-78; 8:45 am]

[3410-16]

GREENVILLE HIGH SCHOOL LAND DRAINAGE RC&D MEASURE, KENTUCKY

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Greenville High School Land Drainage RC&D Measure, Muhlenberg County, Ky.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Glen E. Murray, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for installing a land drainage system in the Greenville High School recreation area. The planned works of improvement include subsurface drainage tile, surface waterways, rip-rap material, structures, and reseeding all disturbed areas.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Ky. 40504, telephone 606-233-2749. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before October 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-24705 Filed 8-31-78; 8:45 am]

[3410-16]

NANJEMOY HERONRY WATER-BASED FISH AND WILDLIFE R.C. & D. MEASURE, MARYLAND

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Manjemoy Heronry Water-Based Fish and Wildlife R.C. & D. Measure, Charles County, Md.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the purchase of landrights for a water-based fish and wildlife development. The planned works of improvement include the purchase of 236 acres of land to include the heronry, creek feeding areas, and a buffer zone to be preserved and managed for its unique wildlife habitat.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, Room 522, College Park, Md. 20740, telephone 301-344-4180. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implemention of the proposal will be taken on or before October 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-24706 Filed 8-31-78; 8:45 am]

[3410-16]

OCONEE RIVER WATER-BASED RECREATION SITES R.C. & D. MEASURE, GEORGIA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oconee River Water-Based Recreation Sites R. C. & D. Measure, Treutlen, Montgomery, and Wheeler Counties, Ga.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation. The planned works of improvement include boat ramps, picnic tables, associated parking areas, and necessary sanitary facilities to be located at three sites along the Oconee River.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Ga. 30601, telephone 404-546-2275. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before October 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Programs—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-24707 Filed 8-31-78; 8:45 am]

[3410-16]

PAW PAW BOTTOMS FLOOD PREVENTION AND LAND DRAINAGE R.C. & D. MEASURE, OKLAHOMA

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Paw Paw Bottoms Flood Prevention and Land Drainage R.C. &.D. Measure, Sequoyah County, Okla.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The measure concerns a plan for flood prevention and land drainage. The planned works of improvement include 8.13 miles of channel work through an intensively cropped area in the floodplain of the Arkansas River.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Farm Road and Brumley Street, Stillwater, Okla. 74074, telephone 405-624-4360.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-24708 Filed 8-31-78; 8:45 am]

[3410-16]

PIERCE PARK PUBLIC WATER-BASED RECREATION R.C. & D. MEASURE, IDAHO

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pierce Park Public Water-Based Recreation R.C. & D. Measure, Clearwater County, Idaho.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Amos I. Garrison, Jr., State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for constructing a day-use recreation area for the city of Pierce, Idaho. The planned works of improvement include facilities for picnicking, fishing access, fish habitat improvement, parking, sanitation, and a storage building.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Amos I. Garrison, Jr., State Conservationist, Soil Conservation Service, 304 North Eighth Street, Room 302, Boise, Idaho 83702, telephone 208-384-1601. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before October 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-24709 Filed 8-31-78; 8:45 am]

[3410-16]

WHITNEY IRRIGATION DISTRICT DISTRIBUTION SYSTEM FARM IRRIGATION R.C. & D. MEASURE, NEBRASKA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Whitney Irrigation District Distribution System Farm Irrigation R.C. & D. Measure, Dawes County, Nebr.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Benny Martin, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for renovating an existing farm irrigation system. The planned works of improvement include water control structures, buried pipelines, rock riprap and earthwork to stabilize impoundment structures and canals, and grass seeding as needed. All necessary land is under the jurisdiction of the Whitney Irrigation District.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Benny Martin, State Conservationist, Soil Conservation Service, Federal Building—U.S. Courthouse, Room 345, Lincoln, Nebr. 68508, telephone 402-471-5300. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before October 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q.)

Dated: August 24, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-24710 Filed 8-31-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The surf clam advisory subpanel of the Mid-Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss the Surf Clam/Ocean Quahog Fishery Management Plan.

DATE: The meeting will commence at 10 a.m. on September 22, 1978 and will adjourn at about 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will be held at the Sheraton, Route 13, Dover, Del., 302-678-8500.

FOR FURTHER INFORMATION CONTACT:

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Del. 19901, telephone, 302-674-2331.

Dated: August 28, 1978.

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

[FR Doc. 78-24669 Filed 8-31-78; 8:45 am]

[3510-22]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL; ATLANTIC MACKEREL, SQUID, AND BUTTERFISH

Supplements to Final Environmental Impact Statements/Draft Fishery Management Plans; Draft Environmental Impact Statement/Draft Fishery Management Plan; Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of public hearings.

SUMMARY: Supplements No. 1 to the final environmental impact statements/fishery management plans for the Atlantic mackerel fishery and the squid fishery of the Northwestern Atlantic Ocean; and a draft environmental impact statement/fishery management plan for the butterfish fishery of the Northwest Atlantic Ocean, have been prepared by the Mid-Atlantic Fishery Management Council in consultation with the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and the New England and South Atlantic Fishery Management Councils. They have been prepared under the authority of and pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and title III, section 303 of the Fishery Conservation and Mangagement Act of 1976 and are available for public review and comment.

DATES AND ADDRESSES: The Mid-Atlantic Fishery Management Council will hold its public hearings at the following dates and locations at 7 p.m. and adjourning at 10 p.m.:

September 20, Quality Inn Lake Wright, 6280 Northampton Boulevard, Box 2048, Norfolk, Va. 23502.
September 21, Fenwick Inn, 13801 Coastal Highway, Ocean City, Md. 21842.
September 26, Golden Eagle Motor Inn, Philadelphia Avenue on the Beach, Cape May, N.J. 08204.
September 27, Asbury Avenue Pavilion, South Asbury and Ocean Avenue, Asbury Park, N.J. 07712.
September 28, Holiday Inn, Route 347, Centereach, N.Y. 11720.

The hearings will be tape recorded, and the tapes will be filed as an official transcript of proceedings. A written summary will be prepared on each hearing.

Submit written comments to the contact person listed below by October 2, 1978, for the mackerel plan, by October 9, 1978, for the squid plan, and by October 23, 1978, for the butterfish plan to receive full consideration in the plan development and amendment process.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Del. 19901, telephone 302-674-2331.

SUPPLEMENTARY INFORMATION: The supplemental environmental impact statements and draft environmental impact statement contain proposals to adopt and implement fishery management plans for the squid, mackerel, and butterfish fisheries off the Northeastern, Mid-Atlantic, and South Atlantic United States under the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources in a fishery conservation zone to 200 nautical miles and establishes a program for their management. Fishery management plans prepared by the fishery management councils constitute a major Federal action significantly affecting the human environment and require the approval of the Secretary of Commerce prior to implementation by the U.S. Department of Commerce.

The draft plans for squid, Atlantic mackerel, and butterfish, when approved, will serve to manage these fisheries for optimum yield and, therefore, contain proposed regulatory measures applicable to domestic and foreign fishing. These plans, when implemented, will replace existing preliminary management plans for these species. Preliminary management plans for 1977 which regulate foreign fishing only, were issued by the Department of Commerce on February 16, 1977, for squid, Atlantic mackerel, and other finfish, and were supplemented September 6, 1977, to address recommended foreign fishing regulations for calendar year 1978.

SQUID

The draft squid plan covers two genera, *Illex* and *Loligo*, and seeks to accomplish the following objectives: (1) Achieve and maintain optimal stocks for future recruitment; (2) prevent destructive exploitation of the squid species; (3) control fishing practices to minimize capture of nontarget species; (4) encourage efficiency in harvesting and use; (5) maintain adequate food supply for more desirable species; (6) minimize user conflicts; (7) improve understanding of stock conditions; and (8) encourage increased U.S. participation in the squid fishery.

Optimum yields for *Illex* and *Loligo* squid harvest in 1979 have been set at

30,000 metric tons and 44,000 metric tons, respectively. Of these yields, 10,000 metric tons of *Illex* and 14,000 metric tons of *Loligo* have been reserved for U.S. fishermen and the remainder, 20,000 metric tons of *Illex* and 30,000 metric tons of *Loligo*, are proposed for allocation to foreign nations under U.S. supervision. Squid is a developing resource currently underutilized by the United States, and the share of optimum yield reserved for U.S. fishermen in 1979 exceeds previous levels of production.

Regulatory measures recommended in the draft squid plan include licensing of foreign and domestic vessels and transporters and processors of squid for sale, and periodic reporting of all squid transactions. In addition, area, time, and gear restrictions along with provisions for observers are recommended to control and monitor foreign fishing activities.

MACKEREL

The draft Atlantic mackerel plan seeks to accomplish the following objectives: (1) Provide opportunity for increased recreational and commercial catch; (2) maximize the contribution of recreational fishing for Atlantic mackerel to the national economy; (3) maintain spawning stock size as the point where optimum sustained yield of the fishery is assured; and (4) minimize costs to taxpayers of development, research, management, and enforcement in achieving plan objectives.

Optimum yield for Atlantic mackerel harvest in 1979 has been set at 15,200 metric tons. Of this yield, 5,000 metric tons have been reserved for U.S. commercial interests and 9,000 metric tons for U.S. recreational interests. This proposed ceiling on U.S. harvest is tentative and subject to reallocation between user groups as needed throughout the year. In addition to recommended U.S. production, 1,200 metric tons of mackerel are allocated as a TALFF to be caught incidentally by foreign nations.

Regulatory measures recommended in the draft mackerel plan include licensing of domestic commercial vessels and recreational vessels for hire and periodic reporting of catch, fishing activity, and transactions in each fishery. Foreign nations must abide by the 1978 foreign fishing regulations.

BUTTERFISH

The draft butterfish plan contains the following objectives: (1) Minimize cost of butterfish to consumers; (2) minimize costs of harvesting butterfish; (3) increase employment opportunities for commercial fishermen; (4) prevent exploitation of the resource beyond that level producing the maximum sustainable yield; (5) minimize costs of enforcement and management of the resource; and (6) maximize marine food resources.

The 1979 optimum yield for butterfish has been set at 10,000 metric tons. The domestic capacity has been estimated at 6,000 metric tons and the TALFF at 4,000 metric tons.

Regulatory measures recommended in the draft butterfish plan include:

1. Vessel owners/operators be registered;
2. Foreign fishing for butterfish be governed by the foreign fishing regulations;
3. Periodic catch reports be filed by registered fishermen and processors; and
4. Any significant fraction of the U.S. butterfish capacity not harvested by fishermen be reallocated to foreign fishermen.

Signed in Washington, D.C., this 30th day of August 1978

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

[FR Doc. 78-24815 Filed 8-31-78; 8:45 am]

[1505-01]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 10-1; Amdt. 3]

ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

Statement of Organization, Function, and Delegation of Authority

Correction

In FR Doc. 78-23187 appearing at page 36672 in the issue for Friday, August 18, 1978, add "Amdt. 3" to the bracketed material in the heading as shown above.

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to procurement list 1978 military resale items to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 1, 1978.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On May 26, 1978 the Committee for Purchase From the Blind and Other Severely Handicapped published notice (43 FR 22771) of proposed addition to procurement list 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the committee has determined that the military resale items listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following military resale items are hereby added to procurement list 1978:

Item No.	Items
555	Scrubber, kitchen.
556	Scrubber, bathroom.
557	Scrubber, general household.
596	Cutlery set, H.D., plastic.
597	Knives, H.D., plastic.
598	Forks, H.D., plastic.
599	Spoons, H.D., plastic.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-24742 Filed 8-31-78; 8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

TOXIC SUBSTANCES STRATEGY COMMITTEE, SUBCOMMITTEE ON TRADE SECRETS AND DATA CONFIDENTIALITY; INITIAL RECOMMENDATIONS

Request for Comments

AGENCY: Council on Environmental Quality.

SUBJECT: Toxic Substances Strategy Committee, Subcommittee on Trade Secrets and Data Confidentiality; Initial Recommendations.

ACTION: Request for Comments on Subcommittee Recommendations.

SUMMARY: The Subcommittee on Trade Secrets and Data Confidentiality has developed initial recommendations for consideration by the Toxic Substances Strategy Committee concerning the treatment to be accorded health, safety, and efficacy data. This report supplements two additional preliminary reports released for comment by the subcommittee earlier this month (43 FR 36990, August 21, 1978).

All papers were developed in accordance with the subcommittee's work plan, published in the FEDERAL REGIS-

TER on March 3, 1978 (43 FR 8830), after receiving public comments and holding a public meeting on March 20, 1978, to discuss the issues. After reviewing public comments on the recommendations in each of its preliminary reports, the subcommittee will submit revised recommendations to the Toxic Substances Strategy Committee for adoption.

DATES: Comments on the paper on health, safety, and efficacy data must be received by October 15, 1978.

ADDRESSES: Requests for documents and comments on subcommittee reports should be addressed to Robert B. Nicholas, Chairman, Subcommittee on Trade Secrets and Data Confidentiality, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert B. Nicholas, Chairman, Subcommittee on Trade Secrets and Data Confidentiality, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, 202-633-7111.

SUPPLEMENTAL INFORMATION: The Toxic Substances Strategy Committee, formed in response to the President's Environmental Message of May 1977, set out a number of issues to be examined in its evaluation of coordination of Federal programs and activities pertaining to research, regulation, and information on toxic substances. As one of the tasks, the Subcommittee on Trade Secrets and Data Confidentiality examined the effects of present Federal protection afforded trade secrets and similar information upon the Government's efforts to control environmental and public health problems caused by toxic substances.

The Trade Secrets Subcommittee held discussion meetings regularly throughout the development of each paper in order to accurately reflect the experience of each agency in the papers' evaluations and recommendations. Comments received from the public in response to the subcommittee's work plan and at the public meeting were also reviewed by each subcommittee member and provided a focus for evaluation of subcommittee recommendations.

Each topic before the subcommittee was evaluated in light of the effects of present policy and of proposed alternatives on the subcommittee's stated goals of:

Facilitating agency access to necessary data;

Facilitating public access to provide for the greatest possible public participation in Federal decisionmaking consistent with the protection of confidential information; and

Minimizing administrative burdens of duplicate reporting and of ad hoc, case-by-case confidentiality determinations. In comments received in response to the subcommittee's work plan, these goals were generally endorsed by all sectors of the public, including representatives of both industy and public interest groups.

Although the subcommittee's analysis has been generally restricted to the toxic substances-related statutes listed in appendix B of the work plan, it should be noted that the subcommittee's recommendations may also be applicable to other legislation which pertains to toxic substances control. In addition, the subcommittee has limited its evaluations and recommendations to information which an agency has legal authority to compel to be submitted and has specifically excluded data which has been submitted primarily for statistical purposes.

Trade secret protection for health, safety, or efficacy data.—Is it in the public interest? For purposes of discussion the subcommittee has selected the following language to describe the subject matter included within "health, safety, and efficacy data:"

All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a toxic substance or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such toxic substance in the environment, including, but not limited to, data on safety to humans and mammals, fish and wildlife, plants, and soil, or studies on persistence, translocation, and fate in the environment, and metabolism.

Health, safety, and effectiveness data concerning potentially toxic substances are submitted to Federal agencies in the contexts of premarket licensing, premarket notification, testing requirements, and rulemaking, as well as for other regulatory purposes. Such studies, tests, and similar information bear on a chemical's effectiveness or safety as the chemical affects the public health and environment, and the data frequently play a pivotal role in Government decisions; for example, providing a basis for an agency to grant or withhold a new drug application, or to take similar regulatory action.

In determining to what extent, if at all, health, safety, or efficacy data should be disclosed to the public, Federal agencies are faced with balancing the economic interests of the industries which have developed a new chemical or a new use for a substance with the interests of the public in participating in and reviewing Government decisionmaking, and in having full access to information which could disclose potential health and environmental hazards. Current Government policy with regard to disclosure of health, safety, or efficacy data is often ambiguous and is inconsistent among agencies and, sometime, among individual programs within a single agency. The Subcommittee believes that an ideal disclosure policy would accomplish several goals:

Protect and promote public health and the environment;

Protect and promote research and innovation;

Permit extensive public participation in the decisionmaking process;

Promote submission of high quality data;

Promote the dissemination of scientific information;

Reduce duplicative research; and

Reduce administrative burdens.

In developing recommendations for a disclosure policy for health, safety, and efficacy data, the Subcommittee sought to evaluate the value attributed by industry to its data, as well as examining recent legislative and judicial trends in balancing the public and private interests involved in information disclosure or protection. Among other factors, the Subcommittee also considered the need to preserve incentives for innovation, the adequacy of patent protection for the data, and the burdens of duplicative testing.

The Subcommittee's preliminary recommendation is for full public disclosure of all safety, health, and efficacy data which the Federal Government has the authority to require private industry to submit. The Subcommittee believes that a properly designed disclosure system could provide adequate protection of manufacturers' economic interests and stimulate innovation in the private sector, as well as allow full public access to all health, safety, and efficacy data. In a licensing context, a system providing a pioneer firm with compensation, with a period of exclusive use of the data it has developed, or a similar mechanism, would appear to offer the necessary protection to a firm's commercial and economic interests, which in some circumstances may be essential to assure continued innovation and development within industry.

At this time, the Subcommittee is not proposing a specific method of implementation of its preliminary recommendations. Upon review of public comments, however, the Subcommittee may recommend comprehensive legislation as the most effective method of implementation of final recommendations. The Subcommittee solicits particularly additional information on the costs to the submitter when health, safety, or efficacy data are released to the public and on additional mechanisms to compensate for such costs. The Subcommittee also welcomes comments on any other aspect of this problem.

The Subcommittee is interested in receiving comments from all sectors of the public. These comments will provide the basis for the drafting of the Subcommittee's final report to the Toxic Substances Strategy Committee. Once adopted by the Strategy Committee, the Subcommittee papers will be included in the Strategy Committee's report to the President.

ROBERT B. NICHOLAS,
Chairman, Subcommittee on Trade Secrets and Data Confidentiality.

[FR Doc. 78-24678 Filed 8-31-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-5766 et al.]

CONTINENTAL OIL CO. ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates[1]

AUGUST 24, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a shortened notice period for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 5, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-5766, C, Feb. 10, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., Langlie Mattix and Jalmat fields, Lea County, N. Mex.	(1)	14.73
CI75-722, C, Oct. 17, 1977	Pioneer Production Co., P.O. Box 2542, Amarillo, Tex. 79105.	El Paso Natural Gas Co., Wolfcamp Formation in the Elizando Federal "A" No. 5 well, located in sec. 34-T21S-R27E, Eddy County, N. Mex.	(2)	14.65
CI78-33, C, Jan. 27, 1978	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Empire South deep unit No. 15 well, Morrow Formation, sec. 8-T18S-R29E and Empire South deep unit No. 16 well, Morrow Formation, sec. 7-T18S-R29E, both in Eddy County, N. Mex.	(3)	14.65
CI78-33, C, June 5, 1978	Amoco Production Co	El Paso Natural Gas Co., Baumgartner Federal Gas Com No. 1, sec. 26-T21S-R27E, Eddy County, N. Mex., limited to Morrow Formation only.	(4)	14.65
Do	do	El Paso Natural Gas Co., Potter Federal Com No. 1, N/2 sec. 29-T17S-R27E, Eddy County, N. Mex., limited to Cisco Formation only.	(5)	14.65

[1] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[2] Applicant is filing under gas purchase contract dated May 2, 1975, amended by amendment dated Sept. 27, 1977.
[3] Applicant is filing under gas purchase agreement dated Sept. 27, 1977, amended by amendment dated Nov. 7, 1977.
[4] Applicant is filing under gas purchase agreement dated Sept. 27, 1977, amended by amendment dated Mar. 15, 1978.
[5] Applicant is filing under gas purchase agreement dated Sept. 27, 1977, amended by amendment dated Apr. 10, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 78-24568 Filed 8-31-78; 8:45 am]

[6740-02]

[Docket Nos. G-5010 et al.]

SHELL OIL CO. ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

AUGUST 23, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

person desiring to be heard or to make any protest with reference to said application should on or before September 1, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
G-5010, C, Aug. 1, 1978	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	El Paso Natural Gas Co., SW/4 NE/4 sec. 2, block A, G and MMB and A survey, Ward County, Tex., limited to Clear Fork formation.	(1)	14.65
G-10165, D, Aug. 14, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Bully Camp field, Lafourche Parish, La.	Prior to the year 1961 leases were relinquished and/or released.	
G-14852, D, Aug. 14, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Northern Natural Gas Co., sec. 175, block A, HE & WT RR. Co. survey, Schleicher County, Tex.	Lease expired by its own terms on Nov. 23, 1959, and production was never established from the Roberts Gas Unit No. 1 well and was plugged and abandoned December 1959.	
CI64-156, C, Aug. 7, 1978	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Colorado Interstate Gas Co., Wamsutter Unit area, Sweetwater County, Wyo.	(1)	15.025
CI68-166, C, Aug. 7, 1978	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	El Paso Natural Gas Co., Gulf-Cook State Unit well No. 2, Cherry Canyon Formation, Reeves County, Tex.	(2)	14.65
CI73-296, C, Aug. 7, 1978	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kans. 67201.	Mountain Fuel Supply Co., certain acreage in Moffat County, Colo.	(1)	15.025
CI74-528, C, July 5, 1977	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., Sand Hills Field, Crane County, Tex.	(1)	14.65
CI74-528, C, Aug. 8, 1977	do	do	(1)	14.65
CI75-220, C, Aug. 11, 1978	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe line Co., Dunne-Hoffman "G" No. 1 well, Panoma Council Grove Field, Stevens County, Kans. limited to the Panoma Council Grove formation only.	(1)	14.65
CI76-641, C, Aug. 11, 1978	Atlantic Richfield Co	Tennessee Gas Pipeline Co., S/2 S/2 SW/4 of block 35, NE/4 of SW/4 and NW/4 of SE/4 of block 66, located in the West Cameron area, offshore, Lousiana.	(1)	15.025
CI78-492, C, Aug. 14, 1978	Placid Oil Co., 1600 First National Bank Bldg., Dallas, Tex. 75202.	Transcontinental Gas Pipe Line Corp., Florida Gas Exploration—No. 1 Shirley Sherman well and Florida Gas Exploration—No. 1 Unit 25—10 well in Oakvale Field, Jefferson Davis County, Miss.	(3)	15.025
CI78-961, A, June 30, 1978	Columbia Gas Development Corp., P.O. Box 1350, Houston, Tex. 77001.	Southwest Gas Corp., McMillan Federal Com No. 1 well, Eddy County, N. Mex.	(1)	14.73
CI78-962, A, July 3, 1978	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Popcorn Bayou field, Plaquemines Parish, La.	(1)	15.025
CI78-963 (CI73-466), B, July 3, 1978.	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004.	Union gas Systems, Inc., Northwest Pond Creek field, Osage County, Okla.	(4)	
CI78-964 (CI69-505), B, July 3, 1978.	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, East Laketon field, Gray County, Tex.	Depleted, plugged and abandoned, leases terminated and contract cancelled.	
CI78-965 (G-18924), B, July 3, 1978.	do	Coastal States Gas Producing Co., Northwest Orange Grove field, Jim Wells County, Tex.	Do.	
CI78-966, A, July 6, 1978	Amerada Hess Corp., 1200 Milam, 6th Floor, Houston, Tex. 77002.	Northern Natural Gas Co., West Cameron block 606, offshore, Lousiana.	(5)	15.025
CI78-967, A, July 7, 1978	CNG Producing Co., 445 West Main St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., "B" platform, Ship Shoal block 271 south addition, offshore, Louisiana.	(16)	15.025
CI78-969 (CI72-450), B, July 6, 1978.	Ladd Petroleum Corp., 830 Denver Club Bldg. Denver, Colo. 80202.	Northern Natural Gas Co., Camrick field, Beaver County, Okla..	Depleted.	
CI78-970 (CI72-450), B, July 6, 1978.	do	do	Do.	
CI78-971 (CI72-450), B, July 6, 1978.	do	do	Do.	
CI78-972, A, July 14, 1978	The Northern Mutual Life Insurance Co., 720 East Wisconsin Ave., Milwaukee, Wis. 53202.	Michigan Wisconsin Pipe Line Co., blocks A-334 and A-335, High Island area, offshore, Texas.	(1)	14.73
CI78-973, A, July 7, 1978	Northwest Production Corp., P.O. Box 1796, El Paso, Tex. 79949.	El Paso Natural Gas Co., certain acreage in San Juan County, N. Mex.	(7)	15.025

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI78-974, A, July 7, 1978	American Natural Gas Production Co., 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056.	Montana-Dakota Utilities Co., certain acreage in Big Horn County, Wyo.	(⁸)	14.73
CI78-975, A, July 7, 1978	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Transco Gas Supply Co., High Island block A-330, offshore, Tex.	(¹)	14.65
CI78-976, A, July 7, 1978	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Deep Lake field, Cameron Parish, La.	(¹)	15.025
CI78-979, A, July 7, 1978	The Louisiana Land & Exploration Co., 225 Baronne St., P.O. Box 60350, New Orleans, La. 70160.	Texas Eastern Transmission Corp., certain acreage located in the Aberdeen field, Monroe County, Miss.	(⁹)	14.73
CI78-981, A, July 10, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, West Cameron block 608 field, offshore, Louisiana.	(¹)	15.025
CI78-982 (G-5933), B, July 10, 1978.	Texaco Inc., P.O. Box 430, Bellaire, Tex. 77401.	United Gas Pipe Line Co., McFaddin field, Victoria County, Tex.	Lease released and there are no known physically recoverable gas reserves.	
CI78-983 (CI70-[480), B, July 10, 1978.	.....do.....	Natural Gas Pipe Line Co. of America, Stroman field, Jim Hogg County, Tex.	Leases released to the lessor and gas reserves depleted.	
CI78-984, A, July 10, 1978	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45850.	El Paso Natural Gas Co., South Carlsbad field, Eddy County, N. Mex.	(¹)	14.65
CI78-987, A, July 10, 1978	Kerr-McGee Corp. (operator) P.O. Box 25861, Oklahoma City, Okla. 73125.	El Paso Natural Gas Co., morrow formation underlying certain lands in sec. 1 and 26, block RE, Roberts & Eddleman survey, Wheeler County, Tex.	(¹)	14.65
CI78-988, A, July 11, 1978	Southland Royalty Co. (operator), 1000 Forth Worth Club Tower, Fort Worth, Tex. 76102.	Michigan Wisconsin Pipe Line Co., Mississippian formation from the Stambaugh No. 1-32 well located in sec. 32-T20N-R15W, Major County, Okla.	(¹)	14.73
CI78-989, A, July 11, 1978	.....do.....	Panhandle Eastern Pipe Line Co., Hunton limestone formation from the Mallory No. 1-6 well, located in sec. 6-T26N-R14W, Woods County, Okla.	(¹)	14.73
CI78-990, A, July 11, 1978	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	United Gas Pipe Line Co., Mollie Woolf gas Unit well No. 1, Overton field, Smith County, Tex.	(¹)	14.65
CI78-991, (G-11030), B, July 12, 1978.	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Florida Gas Transmission Co., Borosa field, Starr County, Tex.	Ceased production, lease expired by its own terms, plugged and abandoned on 7-23-71	
CI78-992, F, July 13, 1978	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125.	Arkansas Louisiana Gas Co., the Purity Mott Unit, Ada field, Bienville and Webster Parishes, La.	(¹⁰)	15.025
CI78-993, A, July 13, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Angell Ranch, Carlsbad, and undesignated fields, Eddy County, N. Mex.	(¹)	14.73
CI78-994, A, July 14, 1978	CNG Producing Co., 445 West Main St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., block 102, Vermilion area, offshore, Louisiana.	(¹⁸)	15.025
CI78-995, (CI68-1290), B, July 10, 1978.	Kerr-McGee Corp	Southern Natural Gas Co., Breton Sound block 19, Plaquemines Parish, La.	Depleted and lease released.	
CI78-996, A, July 14, 1978	Pennzoil Producing Co., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., CL&F C No. 1 and CL&F D No. 1, both in Kent Bayou field, Terrebonne Parish, La.	(¹)	15.025
CI78-997, A, July 14, 1978	Cotton Petroleum Corp., 4200 One Williams Center, Tulsa, Okla. 74103.	Northern Natural Gas Co., Mathers No. 1-27 well, sec. 27-15N-26W, Northwest Hamberg field, Roger Mills County, Okla., limited to Upper morrow formation only.	(¹)	14.65
CI78-998, A, July 14, 1978	.....do.....	Tennessee Gas Pipeline Co., Nunez No. 1 well, Bell City east field, Calcasieu Parish, La.	(¹)	15.025
CI78-999, A, July 17, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., certain acreate in Lea County, N. Mex.	(¹)	14.65

[1] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[2] Applicant is filing under gas purchase agreement, dated Aug. 2, 1967, amended by letter agreement dated June 27, 1978.
[3] Applicant is filing under gas sales contract dated Jan. 30, 1978, amended by amendment dated July 14, 1978.
[4] The Herard "A" No. 10 well was shut-in on Nov. 15, 1977 as the gas reserves were economically depleted; the well has not been plugged and abandoned at this time and the lease currently has four active oil wells; the Nov. 22, 1972 contract was terminated and cancelled by agreement effective June 1, 1978.
[5] Applicant is filing under gas purchase contract dated May 25-78.
[6] Applicant and purchaser are affiliated.
[7] Applicant is filing under gas purchase agreement dated May 15, 1978.
[8] Applicant is filing under gas purchase contract dated June 5, 1978.
[9] Applicant is filing under gas purchase contract dated June 21, 1978.
[10] By assignment dated Feb. 1, 1978, but effective as of Jan. 1, 1977, Triangle Refineries, Inc. assigned its 5.76 Pct. Working interest to Kerr-McGee. Applicant request the existing gas purchase contract dated Nov. 27, 1959 and separate certificate applied for herein, be accepted, all to be effective as of Jan. 1, 1977.

Filing Code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreate. E—Total succession. F—Partial succession.

[FR Doc. 78-24567 Filed 8-31-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of the Secretary

PRIVACY ACT OF 1974

Proposed system of Records

AGENCY: Department of Energy.

ACTION: Notice of proposed system of records.

SUMMARY: Notice is hereby given that the Department of Energy (DOE) is proposing to add to its existing and

previously proposed systems of records an additional system to be designated as "DOE-X, Participants in Experiments, Studies and Surveys." In accordance with 5 U.S.C. 552a(o), Office of Management and Budget (OMB) Circular No. A-108 and the transmittal memoranda thereto, DOE has filed concurrently with this publication, a report on these systems of records with the Director of the Office of Management and Budget, the Speaker of the House of Representatives, and the President of the Senate.

Written comments will be received with respect to this proposal; however, DOE intends to operate the proposed system of records at the expiration of the advance notice period if no comments to the contrary are received. It should be noted that DOE is presently in the process of consolidating and renumbering those DOE systems of records which its predecessors maintained. When this process has been completed, an assigned number will replace the "X" in the term "DOE-X" and the Department will publish a notice announcing that change.

DATES: Comments on or before October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Milton Jordan, Acting Director, Division of FOI and Privacy Acts Activities, Room 2109, Federal Building, Washington, D.C. 20461, 202-566-6964.

William D. Luck, Office of General Counsel, Federal Building, Room 6144, 12th and Pennsylvania Avenue, NW, washington, D.C. 20461, 202-566-9296.

SUPPLEMENTARY INFORMATION

I. Narrative statement describing DOE-X, as reguired by the Privacy Act of 1974 and OMB Circular A-108.
II. Comment procedures.

I. NARRATIVE STATEMENT AS REQUIRED BY THE PRIVACY ACT OF 1974 AND OMB CIRCULAR A-108:

DOE-X, PARTICIPANTS IN EXPERIMENTS, STUDIES AND SURVEYS

A. *Purposes.* In the discharge of its functions, the Department of Energy often conducts experiments, studies or surveys involving the solicitation of personal information from individual participants. In several cases, this has resulted in the establishment by DOE or its predecessors of systems of records to encompass the resulting records generated.

However, (i) the multiplicity of functions under the jurisdiction of DOE, (ii) the indications of increasing research efforts based upon personal information obtained from individuals (e.g. household energy consumption data), and (iii) the need for timely energy data, often on an emergency basis, all suggest that it is administratively most prudent to establish this general system of records, rather than having to develop and publish a new system notice and supporting documentation in each new instance.

This system is designed to include those records on individuals who are participants in DOE experiments, studies and surveys, which records as a group are not already maintained or intended to be maintained in any other DOE system of records.

As experiments, studies or surveys within the scope of this proposed system are developed and implemented, DOE will publish notice of their addition (or subtraction) from this proposed system.

At this time the DOE is proposing that the first three subsystems of this proposed system consist of those records about individuals submitted as responses to the Form EIA-23, Annual Survey of Oil and Gas Reserves, and those resulting from the Forms EIA-84, National Interim Residential Survey, and EIA-86, Residential Energy Consumption Survey.

B. *Authority.* The authorities for the maintenance of this system are those authorities vested in the Secretary by the Department of Energy Organization Act, Pub. L. 95-91, specifically including those authorities vested in him by Title III of that Act, supporting the specific data collections which are the subjects of this proposed system. The Specific authority for the collection of data on the EIA-23 is section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93-275. The EIA-84 and EIA-86 are voluntary forms, with data collection supported by section 52 of the Federal Energy Administration Act of 1974.

This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and section 644 of the Department of Energy Organization Act, to prescribe such procedural and administrative rules he may deem necessary or appropriate to administer and manage functions vested in him.

C. *Potential Consequences on Individual Privacy.*

D. *Safeguards Against Unauthorized Access.* DOE does not believe that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of individuals. DOE expects that most of the information retained in this system will be given voluntarily to DOE by the individual respondents who are the subjects of covered surveys. Less frequently, information in the system will be obtained under DOE's mandatory data collection authority. In those cases, DOE will have weighed the effects on the rights of individuals against the Department's need for the information in question, and will have decided that the latter interest is paramount.

The EIA-23 is an example of a form issued under mandatory collection authority. In this case the form is designed to obtain data from legal and natural persons having any ownership interest in domestic oil and gas production and reserves. While most of the respondents are corporate entities, data from at least a sampling of natural persons is necessary in order to obtain a statistically complete view of available domestic reserves.

The EIA-84 and EIA-86 are more typical examples of expected subsystems of the proposed system, in that all information will be collected under voluntary authority.

The use of the system will generally be limited to those persons in the program office conducting the specific survey who have a need for the data for official purposes. Also, data in the possession of the Energy Information Administration are available upon request to any DOE office which determines that such data relate to its functions. Additionally, the routine uses of the information in this system would allow disclosure to outside organizations which are participating in the projects in connection with which the data are obtained. In appropriate cases, disclosure to other Federal agencies may occur. In all cases of disclosure DOE will insist that a recipient maintain the records in accordance with the provisions of the Privacy Act of 1974, that diligence be exercised in controlling access to the records, and that only authorized persons be allowed to use the data. Further, any routine use disclosures by DOE to a non-DOE organization will be with the understanding that DOE be given notice and an opportunity to respond to any further disclosure contemplated by such a recipient entity.

The maintenance of this system should have no effect on the preservation of the constitutional principle of federalism and separation of power.

II. COMMENT PROCEDURES

As provided by section 3(e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(11)), interested persons are invited to submit written data, views, or arguments related to this proposal to Public Hearing Management, Department of Energy, Box VF, 2000 M Street, Room 2113, Washington, D.C. 20461. Hand carried comments may be delivered to that same office between the hours of 8 a.m. to 4:30 p.m., Monday through Friday, except on legal public holidays.

Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "DOE-X, Privacy Act System of Records." Fifteen copies

should be submitted. All comments received on or before October 2, 1978, will be available for public inspection in the DOE reading room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except on legal public holidays. Any such comments and all other relevant information will be considered by DOE before the system is adopted in its final form.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

It is the intent of DOE to operate the system of records as proposed at the expiration of the advance notice period if no comments to the contrary are received.

The DOE has determined that this document does not contain a proposal requiring preparation of a regulatory analysis under Executive Order 12004.

(Privacy Act of 1974, Pub. L. 93-579; Department of Energy Organization Act, Pub. L. 95-91; Executive Order 12009, 42 FR 46267.)

In consideration of the foregoing, the system of records DOE-X as described above is proposed. A system description for the proposed system is set forth below.

Issued in Washington, D.C., August 29, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

System name

Participants in experiments, studies and surveys.

Security classification

Unclassified.

System location

Portions of the system may be located with contractors or other entities involved in conducting the experiments, studies or surveys, or in any DOE office. A complete listing of the location of all subsystems of this system is available from the Director, Division of FOI and Privacy Acts Activities, Department of Energy, Washington, D.C.

Categories of individuals covered by the system

Individuals who are participants in experiments, studies and surveys undertaken in furtherance of authorized DOE research activities.

Categories of records in the system

Name, age, birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants responses during the course of the authorized research.

Authority for maintenance of the system

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

Information in this system may, on occasion, be disclosed to Federal agencies and other entities which are participating in research in connection with which the data were obtained.

Information in the possession of the Energy Information Administration must be disclosed, upon request, to any DOE office which determines the information relates to its functions.

Other routine uses as listed in appendix B to the most recent annual republication by the former Federal Energy Administration (42 FR 53480, at 53494, Sept. 30, 1977) and appendix AA to the most recent annual republication by the former Energy Research and Development Administration (42 FR 53435, at 53478, Sept. 30, 1977).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Paper records in file folders, electromagnetic storage material and microform.

Retrievability

Filed alphabetically by name, or control number or other code identifier.

Safeguards

During business hours the records at DOE sites are maintained in secured buildings with access limited to those whose official duties require access; during nonbusiness hours, the records are in secured rooms with access controlled by security guards. Any records maintained by other entities will be maintained in similar fashion, in accordance with DOE specifications.

Retention and disposal

Retained in accordance with DOE's records control schedule.

System manager(s) and address

The designated person in each office conducting the relevant experiment, study, or survey. A listing of these persons is available from the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C.

Notification procedure

Requests by an individual to determine if a system of records contains information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C., in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (Oct. 2, 1975)).

Record access procedures

Requests by an individual for access to a system of records that contains information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C., in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (Oct. 2, 1975)).

Contesting record procedures

Requests by an individual to correct or amend the content of a record containing information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C., in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (Oct. 2, 1975)).

Record source categories

The subject individuals, and those authorized by the individuals to furnish information.

System exempted from certain provisions of the Act

None.

[FR Doc. 78-24785 Filed 8-31-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 958-6; OPP-66046]

PESTICIDE PROGRAMS

Intent to Cancel Registrations of Certain Pesticide Products

Pursuant to section 6(a)(1) 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.), firms listed below have requested that the Enivronmental Protection Agency (EPA) cancel the registrations of several pesticide products. Such cancellation shall be effective October 2, 1978, unless the regis-

trant or an interested person with the concurrence of the registrant, requests that the registration be continued in effect.

The Agency has determined that the distribution and sale of stocks of these products which were produced on or before the effective date of cancellation would not be inconsistent with the purposes of FIFRA and would not have an unreasonable adverse effect on the environment. Therefore, the distribution and sale of existing stocks of these products shall be permitted until the supply is exhausted or for 1 year after the effective date of cancellation, whichever occurs earlier, provided that these products shall be used only in a manner consistent with the label and labeling registered with EPA. Production of these products after the effective date of cancellation will be considered a violation of FIFRA.

Requests that the registration of these products be continued may be submitted to the Product Control Branch, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. Any comments filed regarding this notice of intended cancellation will be available for public inspection in the Office of the Product Control Branch from 8:30 a.m. to 4 p.m., Monday through Friday.

The registrants concerned and the products affected by this action are listed below.

Dated: August 25, 1978.

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

EPA register No.	Product name	Registrant
359-549	Chipman Amine Brush Killer	Rhoda, Inc., Agriculture Division, Box 125, Monmouth Junction, N.J. 08852.
1475-86	Expello Garmet Bag Hanger	Irwin-Willert Co., 4044 Park Ave., St. Louis, Mo. 63110.
2738-15	Stull's Low Volatile Weed Killer	Stull Chemical Co., 1006 Paulsun, San Antonio, Tex. 78219.
2738-44	Instemul DA 120 Concentrate	Do.
2738-45	Instemul DTA 6	Do.
2738-49	Vegebate 1	Do.
8514-2	Insecticide Space Spray	Oscar Mayer & Co., 910 Mayer Ave., Madison, Wisc. 53701.
8514-3	Stock Item 91-034 Pyrethrum Insecticide for Fogging.	Do.
8514-4	Stock Item 91-036 Lethane Insecticide for Fogging.	Do.
10193-1	No-Gro Liquid Concentrate	Sheff Chemical & Supply Co., 2827 Riverview Blvd. West, Bradenton, Fla. 33505.

[FR Doc. 78-24666 Filed 8-31-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

Correction

The notices of the filing of Agreements Nos. 10350 and 10349, which were published in the FEDERAL REGISTER of August 21, 1978, Vol. 43, No. 162 at page 37011, and August 22, 1978, Vol. 43, No. 163 at page 37218, respectively, are hereby amended to substitute the termination date of December 31, 1980 for December 31, 1978, which appeared in said notices.

Dated: August 29, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24721 Filed 8-31-78; 8:45 am]

[6730-01]

[Docket No. 78-31]

FAST INTERNATIONAL FORWARDING CORP.

Order of Investigation and Hearing

Fast International Forwarding Corp. filed an application with the Commission for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of Fast Internationl Forwarding Corp. it was disclosed that Fast International Forwarding Corp. appeared to violate section 44(a), Shipping Act, 1916, on 19 or more occasions by engaging in unlicensed forwarding activities during the period September 1977 through April 1978, although warnings from the Commission had been received by Fast International Forwarding Corp. on August 26, 1977, and subsequent thereto about unlicensed forwarding activities.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found to be fit, willing, and able to properly carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, as amended, and the requirements, rules, and regulations of the Commission issued thereunder. Otherwise such application shall be denied. The applicant's alleged unlicensed ocean freight forwarding reflects upon the managerial responsibility and fitness of the applicant. These violations occurred while the forwarder's application was being processed and after warnings in regard to carrying on the business of forwarding without a license.

The conduct of Fast International Forwarding Corp. appears to be in violation of the Shipping Act, 1916. Fast International Forwarding Corp. and its corporate officers would also appear to lack the fitness required to be licensed as an independent ocean freight forwarder, under section 44 of the Shipping Act, 1916.

Pursuant to § 510.8 of the Commission's General Order 4 (46 CFR 510.8) the Commission, on May 26, 1978, advised Fast International Forwarding Corp. of its intent to deny its application for reasons set out hereinabove. In accordance with General Order 4 an applicant may request a hearing on the intended denial.

By letter dated June 26, 1978, Fast International Forwarding Corp. requested the opportunity to show at a hearing that denial of Fast International Forwarding Corp.'s application is unwarranted.

Now therefore, it is ordered, That pursuant to sections 22 and 44 (46 U.S.C. 821 and 841(b)) of the Shipping Act, 1916, and § 510.8 of the Commission's General Order 4 (46 CFR 510.8) a proceeding is hereby instituted to determine:

1. Whether Fast International Forwarding has violated section 44(a), Shipping Act, 1916, by engaging in unlicensed forwarding activities subsequent to August 26, 1977;

2. Whether, in light of the evidence adduced pursuant to the foregoing issue, together with any other evidence adduced, Fast International Forwarding Corp. and its corporate officers possess the requisite fitness within the meaning of section 44(b) Shipping Act, 1916, to be licensed as an independent ocean freight forwarder.

It is further ordered, That Fast International Forwarding Corp. be made respondent in this proceeding and that the matter be assigned for public hearing before an administrative law judge at a date and place to be determined by the administrative law judge presiding, but in no event, later than February 16, 1978. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross-examination are otherwise necessary for the development of an adequate record;

It is further ordered, That this order be published in the FEDERAL REGISTER and that a copy thereof be served upon the respondent;

It is further ordered, That any person other than the respondent and the Commission's Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding may do so by filing a timely petition for leave to intervene pursuant to § 502.72 of the Commission's rules;

It is further ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing or of prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24723 Filed 8-31-78; 8:45 am]

[6730-01]

Independent Ocean Freight Forwarder License

APPLICANTS

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Professional Transportation Consultants, Inc., 23779 Madison Street, Torrance, Calif. 90505, officers: Robert C. Urbina, president/treasurer, Rolande Murielle, vice president, William R. Torres, secretary.

Gulf United Freight System, No. 3 Embarcadero Center, No 2085, San Francisco, Calif. 94111, officers: Jack Potashnik, president, Dana Miller, secretary/treasurer, Robert Mehrabian, vice president.

Preston Forwarding Co. (Paul J. Preston, d.b.a.), 1612 Market Street, Suite 601, Philadelphia, Pa. 19103.

Robert Jeffrey Schott, P.O. Box 17373/ Dulles International Airport, Cargo Bldg., No. 2, Bay Door No. 55, Washington, D.C. 20041.

Davis Export Consultants International (Nathaniel F. Davis, d.b.a.), One Allen Center, Suite 1000, Houston, Tex. 77002.

Forwarders International Ltd., Burlington Northern Air Freight Bldg., Cargo Road, P.O. Box 66381, O'Hare International Airport, Chicago, Ill. 60666, officers: Jack Lewin, president, Stephen M. Lewis, secretary.

Hayakawa Forwarding Inc., 350 South Figueroa Street, Los Angeles, Calif. 90071, officers: Tadashi Hayakawa, president/ chief financial officer, Yoichi Kamachi, vice president/secretary, Ken Miyoshi, Assistant vice president.

Woodfab Forwarding (Wood Fabricating Co., Inc., d.b.a.), 6700 Chase Road, Dearborn, Mich. 48126, officers: Jerrold R. Joseph, president, Jack B. Joseph, treasurer, Lucille Joseph, secretary.

Saudinvest Transportation & Traffic Services (Saudi Investment Establishment for Universal Trade & Agencies), 9469 Northgate Drive, Allison Park, Pa. 15101, officers: B. A. Alfageer, president, A. O. Salamah, manager, R. L. Hardin, vice president, North America.

Jose Perez Jaume, P.O. Box 523415, Miami, Fla. 33152.

World Trade Transport Corp. (Michael C. Parks, d.b.a.), World Trade Center, Suite 3532, Baltimore, Md. 21202.

Central Cargo, Inc., 3380 Northwest 78th Avenue, Miami, Fla. 33122, officers: Byron J. Garcia, president, Bayardo Perez Palma, treasurer, Agustin D. Goytisolo, secretary, Josefina Quintela, Assistant treasurer, Ernesto J. Padron, Assistant vice president/manager.

Varko, Inc., 7747 Northwest 53d Street, Miami, Fla. 33166, officers: Manuel A. Sedano, president/treasurer, Ida Aida Valdes, vice president/secretary.

Aztec Forwarding, Inc., 5739 Arbor Vitae Street, Los Angeles, Calif. 90045, officers: Joseph N. Baldonado, president, A. N. Blaset, vice president.

Astro International Freight Forwarders, Inc., 5300 Eisenhower Avenue, Alexandria, Va. 22304, officers: Vivan B. Runfola, president/treasurer, Dorothy M. McNaughton, vice president/secretary.

American Exporters Forwarding International (Joseph Valentine Skitarelic, d.b.a.), 260 California Street, Suite 1108, San Francisco, Calif. 94111.

Transport Freight Consultants, 671 South Royal Poinciana, Miami Springs, Fla. 33166, officers: C. Ady Lucio, president, Digna Lorenzo, secretary.

John J. Solano, 655 Cornell Avenue, Wenonah, N.J. 80890.

Sun Belt Forwarding Co. (P. J. Rodasti, d.b.a.), 5814 Delbury Street, Houston, Tex. 77085.

Armac Transportation, Inc., 179-15 149th Avenue, Jamaica, N.Y. 11434, officer: Arthur C. McCormack, president.

By the Federal Maritime Commission.

Dated: August 29, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24722 Filed 8-31-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review staff, GAO, on August 24, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 19, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review staff, 202-275-3532.

FEDERAL MARITIME COMMISSION

The FMC requests an extension without change clearance of Part 530 of Chapter IV: Title 46, CFR, General Order 13, Filing of Tariffs by Common Carriers by Water in the Foreign Commerce of the United States and by conferences of such carriers. The rule concerns the procedure, form, and content of tariff filings and is designed to simplify and standardize the tariff filings. The FMC states that the original rule's effective date was stayed pending petitions for reconsideration and that the final rule contains changes which resulted from this reconsideration and became effective January 1, 1978. All tariff changes submitted after the new rule's effective date must comply in substance with the new rule. All tariffs must be amended to comply with the new rule by January 1, 1979. The FMC also states that the changes were not material as there was no increase in burden. The FMC estimates potential respondents will number approximately 1,015 common carriers by water in the foreign commerce of the United States and conferences of such carriers and that reporting burden imposed by the revision averages 25 additional hours per respondent for a total annual burden of approximately 87 hours per respondent for 1 year only. Thereafter annual burden will average

approximately 62 hours per respondent.

JOHN M. LOVELADY,
Assistant Director,
Regulatory Reports Review.

[FR Doc. 78-24754 Filed 8-31-78; 8:45 am]

[4110-92]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FEDERAL COUNCIL ON THE AGING

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Council will hold a meeting on September 26, 27, 1978 from 9:30 a.m. to 5 p.m., Room 5051, HEW-North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The agenda will consist of consideration of the Older Americans Act Amendments of 1978. Status statements will be given by: (1) the Committee on Senior Services on implementation of the FCA study of the treatment of assets in income-conditioned Government benefit programs, and on consideration of a research design of mandated study on federally assisted transportation programs for the elderly; (2) the Committee on Long-Term Care on the Study of Health Manpower Needs for Services to Older Americans; (3) the Committee on Policy Development and Program Evaluation on the Report of the Secretary's Committee on Mental Health and Illness of the Elderly; and (4) the Committee on Special Populations on the Frail Elderly draft report, and on the Minority Elderly Study. The Council will also consider plans for carrying out assigned responsibilities in program review and initiation in the field of aging.

Further information on the Council may be obtained from the FCA Secretariat, Federal Council on the Aging, Washington, D.C. 20201, telephone 202-245-0441. FCA meetings are open for public observation.

NELSON H. CRUIKSHANK,
Chairman,
Federal Council on the Aging.

AUGUST 25, 1978

[FR Doc. 78-24739 Filed 8-31-78; 8:45 am]

[1505-01]

Food and Drug Administration

[Docket No. 78N-0202; DESI 6290]

CYPROHEPTADINE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 78-20495 appearing at page 32187 in the issue for Tuesday, July 25, 1978, make the following corrections:

1. On page 32187, first column, second line of the SUMMARY, delete the hyphen between "cyprohepta[dine]" and it should read "cyprohepta[dine]"; and in the second column, second line of the second paragraph under ADDRESS, "[appli]cators" should read "[appli]cations".

[4110-03]

[Docket No. 77P-0065]

LIBBY, McNEILL & LIBBY, INC.

Canned Pears Deviating From Identity Standards; Extension and Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is extending and amending a temporary permit issued to Libby, McNeill & Libby, Inc. to market test a new style of pears designated as "chunky." The amended permit provides for market testing of certain additional quantities of the product and expansion of the marketing areas. This action will enable Libby, McNeill & Libby to further its experimental marketing survey.

DATES: This amended permit is effective September 1, 1978, and shall terminate either on the effective date of an affirmative order ruling on a proposal based on a Libby, McNeill & Libby, Inc. petition to amend the standard of identity for canned pears or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: Under § 130.17 (21 CFR 130.17), the Commissioner of Food and Drugs announced issuance of a temporary permit to Libby, McNeill & Libby, Inc. in the FEDERAL REGISTER of July 8, 1977 (42 FR 35221). This permit covered limited interstate marketing tests of canned pears that deviate from the standard of identity prescribed in § 145.175(a) (21 CFR 145.175(a)), in that the standard does not provide for the optional style of chunky pears (units predominantly greater than one-half inch and less than 1¾ inches in the largest dimension). The product is packed in heavy syrup and contains artificial strawberry flavor, both of which are already provided for in the standard. In addition to the name "chunky pears," the principal display panel of the label contains the words "in heavy syrup."

On November 4, 1977 (42 FR 57749), the agency issued an amendment of the original permit to Libby, McNeill & Libby, Inc. The amendment provided for market testing of an additional 10,000 cases of twenty-four 16-ounce cans of chunky pears and expansion of the marketing area. The company now requests an extension and another amendment of the permit to further its market test survey to ascertain regional consumer interest. As required by § 130.17, Libby, McNeill & Libby, Inc. has submitted a petition in conjunction with its request, proposing that the agency amend the standards of identity and quality for canned pears (21 CFR 145.175 (a) and (b)) to provide for the optional style "Chunky" pears. The petition, which the Food and Drug Administration is considering, is on file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, for review by interested persons.

The Commissioner believes it will be in the interest of consumers to extend and amend the temporary permit as the manufacturer has requested. The amendment provides for the expansion of the marketing areas to include the States of California, Georgia, Florida, Kansas, Kentucky, Maryland, Michigan, Mississippi, Nevada, New Mexico, Ohio, Pennsylvania, Tennessee, Texas, Virginia, and Wisconsin and the cities of Chicago, Ill., and Washington, D.C. These areas are in addition to the States of Illinois (excluding Chicago), Iowa, Missouri, Nebraska, Oklahoma, and New York. Under § 130.17, all interested persons may participate in the market tests under the conditions that apply to Libby, McNeill & Libby, Inc., including the labeling requirements and the amounts to be distributed (175,000 cases of twenty-four 16-ounce cans of pears). The designated areas of distri-

bution do not apply to such interested persons. Any interested person who elects to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit, along with this notification, the labeling under which the food is to be distributed.

This permit extension, as issued to Libby, McNeill & Libby, Inc. and others who participate under the above provisions, expires either on the effective date of an affirmative order ruling on a proposal based on the Libby, McNeil & Libby, Inc. petition to amend the standard of identity for canned pears or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: August 25, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 75-24662 Filed 8-31-78; 8:45 am]

[4110-35]

Health Care Financing Administration

STATEMENT OF ORGANIZATION FUNCTIONS, AND DELEGATIONS OF AUTHORITY

This notice amends part F of the statement of organization, functions and delegations of authority of the Department of Health, Education, and Welfare, Health Care Financing Administration (42 FR 33071 dated June 29, 1977 and 43 FR 5578 dated February 9, 1978) to reflect the following changes:

a. Strengthen the Office of the Administrator by adding to it the Administrator's Special Initiatives Staff (FA-1) and the Executive Secretariat (FAE);

b. Redesignate the Office of Reimbursement Practices (and Cost Containment) (FAC) as a staff office;

c. Amend the functional statement of the Office of the Deputy Administrator for Operations (FP) by adding to it Health Standards and Quality Bureau (FPS) as an office responsible to the Office of the Deputy Administrator for Operations.

d. Reorganize the Office of Management and Budget (FAM) to integrate personnel, budget, and finance, EEO, and management planning and services in a single unit.

Under Chapter F, Section F.10 Organization delete the present Section F.10, Organization and substitute the following:

F.10 Organization. The Health Care Financing Administration (HCFA) is a principal operating component of HEW. It is headed by an Administrator, HCFA, who reports to the Secretary and consists of the following organizational elements:

Office of the Administrator (FA):
- Administrator's Special Initiatives Staff (FA-1)
- Executive Secretariat (FAE)
- Office of Congressional Affairs (FAL)
- Office of Public Affairs (FAN)
- Provider Reimbursement Review Board (FAH)[1]
- Office of Policy, Planning, and Research (FAR)
- Office of Management and Budget (FAM)
- Office of Regional Affairs (FAF)
- Office of Reimbursement Practices (FAC) (and Cost Containment)
- Office of the Deputy Administrator for Operations (FP):
  - Medicare Bureau (FPH)
  - Medicaid Bureau (FPM)
  - Office of Program Integrity (FPQ)
  - Health Standards and Quality Bureau (FPS)
  - Office of Standards and Certification (FPSS)
  - Office of PSRO (FPSP)
- Office of the Regional Administrator:
  - Regions I through X (FD)

Under Chapter FA, Section FA.20, make revisions as follow:

Delete the statement for the Office of Systems and Organizational Integration (FAS) in its entirety;

Add the following statements after the Office of the Administrator (FA).

ADMINISTRATOR'S SPECIAL INITIATIVES STAFF (FA-1)

The primary function of the staff is to initiate, plan, monitor, or carry out assignments from the Administrator's Office of a programmatic nature. It performs the following functions: Management review of high priority program projects, implementation of new legislation, and management of selected crosscutting projects.

THE EXECUTIVE SECRETARIAT (FAE)

Coordinates for the HCFA Administrator matters of agency policy requiring his attention or decision through the vehicle of action documents. Oversees the management of Federal regulations through the final stages of development and clearance. Serves as HCFA FEDERAL REGISTER contact point. Provides agency-wide guidance and technical assistance on correspondence tracking and control procedures, and on standards for content of correspondence and memoranda. Serves as primary focal point for liaison with Office of the Secretary, Executive Secretariat on HCFA program and policy matters as well as special administrative matters.

OFFICE OF THE DEPUTY ADMINISTRATOR FOR OPERATIONS (FP)

The Office of the Deputy Administrator for Operations provides for the accomplishment of all major HCFA program objectives by acting as a focal point for the planning, coordination, and execution of the programs operated by the Office of Program Integrity, the Medicare Bureau, the Medicaid Bureau, and the Health Standards and Quality Bureau. It is a primary responsibility of this office to participate as a key policy advisor, to collaborate in the formulation of major HCFA program policies and to insure on a nationwide basis that the program integrity, medicare, medicaid and health standards and quality programs are operated in manner consistent with these policies. It establishes operational planning priorities and coordinates HCFA staff office activities with ongoing program operations to maximize efficiency and operational economy. It directs and oversees program integration, whenever feasible, for best utilization of resources for program operations. It directs and coordinates activities to insure program integrity and quality.

The functions of the Health Standars and Quality Bureau remain unchanged: it henceforth is referred to as Chapter FPS.

Section FA.20 Functions is further amended as follows:

Delete Chapter FAM, Office of Management and Budget, and Chapter FAP, Office of Personnel, and their divisions in their entirety and substitute new Chapters FAM and FAMP as follows:

OFFICE OF MANAGEMENT AND BUDGET (FAM)

The Office of Management and Budget provides policy direction, coordination, and broad operational control of HCFA's budget, finance and accounting, personnel, management evaluation and analysis, administrative management services, project grants, contracting and procurement, ADP systems support, advanced systems planning, work planning, and equal employment opportunity programs and operations. It has prime responsibility for the development of HCFA policy in these functional areas and the promulgation and execution of these policies throughout HCFA.

EQUAL EMPLOYMENT OPPORTUNITY STAFF (FAM-1)

The Equal Employment Opportunity Staff develops HCFA Equal Employment Opportunity policy and evaluates the Agency's compliance with these policies. It identifies policy and operational issues concerning the HCFA Equal Employment Opportunity program and proposes solutions for the resolution of these issues. Its operational responsibilities include the counseling of employees, coordinating the development of equal employment

[1]The Provider Reimbursement Review Board is assigned to HCFA for administrative support purposes only.

opportunity plans and the monitoring and the provision of advice to equal employment opportunity counselors and investigators. It administers the equal employment opportunity complaint process.

OFFICE OF GRANTS AND PROCUREMENTS (FAMG)

The Office of Grants and Procurements develops and approves grant and procurement policy for HCFA and its components. It is responsible for direction and control of project grant and contract solicitation, award, and administration. It is responsible for directing the provision of administrative management services to all HCFA central office components.

DIVISION OF GRANTS AND CONTRACTS (FAMG 1)

Provides leadership, direction, and control in grant and contract programs for the Health Care Financing Administration and its bureaus and offices. This leadership includes project grant and contract solicitation, award, and administration. It provides policy and procedure liaison with components of the Office of the Secretary and other DHEW agencies. It conducts a continuing evaluation of grant and contract award practices to assure compliance by HCFA's bureaus and offices with law, approved policy, and regulations. It identifies current and emerging problems, develops major operating and administrative goals, develops and issues HCFA policies and procedures, and provides advice, assistance, and training in these activities.

DIVISION OF ADMINISTRATIVE SERVICES (FAMG 2)

Provides leadership, direction, and control in all administrative management services programs for the Health Care Financing Administration. This leadership includes: Award and procurement management for small purchases; personal and real property management; records, directives, and other paperwork management programs; committee management; printing and reproduction services management programs and occupational health and safety management, and related activities. It develops budget estimates and maintains funds control for a variety of administrative management services. It provides policy and procedure liaison with components of the Office of the Secretary, other DHEW agencies, General Services Administration, Government Printing Office, Small Business Administration, DCAA, and contractors and vendors for these activities. It conducts a continuing evaluation of administrative management services systems to assure compliance with law and regulations. It identifies current and emerging problems, develops major operating and administrative goals, develops and issues HCFA policies and procedures, and provides advice, assistance, and training in these activities.

OFFICE OF PERSONNEL ADMINISTRATION (FAMP)

The Office of Personnel Administration serves as principal advisor to the Director on the operation of HCFA's personnel system with HCFA components, including the following specific activities: (1) Recruitment and placement; (2) position classification and management; (3) maintenance of official personnel records for data control, payroll, and program evaluation purposes; (4) employee and labor relations; and (5) employee development and training, including upward mobility, retirement, and career counseling.

DIVISION OF EMPLOYEE RELATIONS (FAMP 1)

Plans, administers, and evaluates HCFA-wide employee relations activities. It provides general employee counseling on such matters as employee-management communications, consumer and financial guidance, health plans, and related areas. It serves as the central HCFA reference point for inquiries, guidance, and interpretations on employee relations matters. It formulates HCFA-wide policy regarding the development, implementation, and evaluation of employee relations activities. It develops and implements programs and policies pertinent to employee relations matters within headquarters. It assures HCFA-wide equity in adverse actions. It provides procedural advice and participates as appropriate, in the processing under agency and negotiated procedures, of grievances and appeals. It directs development and operation of the HCFA program for incentive and honor awards, and the employee suggestion program.

DIVISION OF CLASSIFICATION (FAMP 2)

Develops and executes the position classification and position management programs for HCFA. It classifies all central office positions and standard job descriptions that are utilized by the Regional Offices. It evaluates programs for adequacy and recommends corrective action when deficiencies are disclosed. It plans and implements position classification surveys and issues reports and recommendations for improvement and coordinates the results with the Office of the Secretary and the Civil Service Commission or the Office of the Secretary. It interprets regulations and legislation concerning positions classification and position management and published HCFA guides, directions, and bulletins concerning these subjects. It provides liaison between the Office of Personnel, the Regional Offices, and HCFA and HEW elements to insure adequate personnel program development and coordination to timely identify potential and existing problems and to resolve the problems. It is responsible for providing information on the position structure for entry into the automated personnel information system and publishes statistical information concerning number, type, grade, average grade, and trend information by cost center.

DIVISION OF STAFFING AND SERVICES (FAMP 3)

Plans and controls personnel service activity for HCFA in all aspects of recruitment, in-service staffing, payroll, security, pre-employment investigations, and followup survey activity, for all types of appointments and all classes and levels of work. It serves to evaluate, plan, and control personnel program activities in the operations area and advises program administrators, operations managers, and the staff offices in all aspects of work and develops special projects for large-scale recruitment, mass transfer, in-service career development, employee management cooperation, and to accommodate the program integration needs resulting from the emergence of the new Agency. It insures the validity of all personnel actions, benefits, and services and builds the employment data base for routine and special reports and statistical studies related to the employee base. It performs liaison functions throughout HCFA and with all regulatory authority to introduce new "state-of-the-art" personnel program plans, and to justify personnel actions taken by HCFA in programmatic areas of personnel actions taken by HCFA in programmatic areas of personnel management. It plans and controls the central system for all personnnel transaction processes, serves as official custodian for all personnel folders, clearances, building passes, confidential reports, employment agreements, and other matters of employment and agency interest.

DIVISION OF TRAINING AND CAREER DEVELOPMENT (FAMP 4)

Plans, directs, and evaluates the HCFA career development and training programs, including special employee development activities. It develops and oversees the implementation of regulations, policies, and programs pertaining to the HCFA-wide training and career development, upward mobility, managerial development, and executive development programs. It develops and implements a career planning process which includes counseling employees on career and educational opportunities. Provides a wide

ranges of professional training activities in the areas of both general skills and program knowledge. It serves as focal point for HCFA training activities to ensure educational validity, appropriateness, and cost-effectiveness. It provides consultation to HCFA components in the development and execution of training programs, including assistance in the identification of training needs. It identifies specific training needs, including cross-programmatic areas, and designs or arrange for training programs, using internal or external sources. It conducts a HCFA-wide annual review to identify both employees' and organizational training needs. It develops the annual HCFA training plan. It manages the HCFA Training Plan/Budget, and administers a HCFA-wide training reporting system.

OFFICE OF FINANCIAL MANAGEMENT (FAMM)

The Office of Financial Management provides policy directions, manages, and coordinates HCFA's financial management program, including preparation, justification, and execution of the total HCFA budget, and the auditing and fiscal management necessary to control all HCFA accounting operations. In addition, analyzes and responds to HCFA audits performed by such agencies as the Office of the Inspector General and the General Accounting Office. It will be responsible for HCFA work planning cost analysis and allocation. It plans and directs the HCFA organizational and manpower management program. It develops HCFA manpower management and organizational practice of HCFA components. It develops, implements, and operates reporting systems that support analysis and evaluation of HCFA manpower management and organizational practices. It is also responsible for the HCFA organizational control processes.

DIVISION OF FINANCE (FAMM 1)

Develops, implements, and administers the HCFA accounting system. It performs accounting functions for appropriations received through Congressional action, fund warrants issued by the Treasury, apportionments issued by the Office of Management and Budget and allotments and/or allowances issued by the Division of Budget. It processes all obligation and expenditure documents, including verification of entitlement for all commercial and intergovernmental financial transactions for the compensation and related costs of personnel (payroll), and for employee travel and transportation (domestic and foreign). It reviews time and attendance reports prior to transmittal to the Central Payroll Office, resolves employee leave and payroll problems, and conducts a time and attendance report preparation training program. Performs accounting for all grants issued to fund programs, and schedules payments by check to those grantees not funded through DFAFS. It reviews and reconciles grantees' quarterly reports of expenditures and relieves grantees' advance accounts on the basis of verified expenditures. It prepares periodic and special reports for Agency management, Office of the Secretary, Treasury Department, and Office of Management and Budget, and maintains liaison with Office of the Secretary, Treasury Department, Office of Management and Budget, and the General Accounting Office on accounting and reporting requirements. It monitors and reconciles data generated in Agency appropriations as a result of entries made in the Regional Accounting System, and provides cashier services, processes collections, and maintains accounts receivable control records. It provides a central point in the Health Care Financing Administration for the coordination of action on all General Accounting Office and HEW audit agency reports.

DIVISION OF BUDGET (FAMM 2)

Prepares, presents, and executes the total budget of the Health Care Financing Administration. It serves as the principal advisor to the Director on all budgetary matters. Develops and operates the HCFA budget system. It acts as liaison for HCFA in budget matters with the Office of the Assistant Secretary for Management and Budget, the Office of Management and Budget, and the Congress. It serves as the central coordination point for all budgetary matters, including interagency agreements, impacting HCFA funding and transfer of funds to and from other agencies. It develops cost data in coordination with other HCFA components for activities funded for HCFA programs and operations. It reviews proposed and existing legislation and assures the development of materials detailing budgetary impact. It provides advice on reporting of program and financial data necessary for presentation and defense of budget requests. It serves as liaison with the Office of Policy, Planning, and Research and other offices to insure that long-range plans, issues, and objectives are adequately supported for translation into budget estimates and justification. It provides advice, guidance, and assistance to HCFA components in the development of budget justification materials and analysis, including implementation of zero base budgeting, mission budgeting, current services budgeting, and other budgetary principles required by OMB and the Congress. It insures that appropriate cost allocation systems for both trust funds and general funds are developed and carried out for use in formulating and executing the HCFA budget. It provides technical direction to HCFA regional components on all budgetary matters. It develops budget control systems necessary to insure that appropriate measures are in place to prevent violation of Anti-Deficiency Act. It maintains and monitors an allotment and allowance system sufficient to pinpoint responsibility and accountability of Federal funds.

DIVISION OF MANAGEMENT PLANNING AND CONTROL (FAMM 3)

The Division of Management Planning and Control plans and directs the HCFA organizational and manpower management program. It is the primary source for the devlopment and establishment of HCFA manpower management and organizational policy. It analyses and evaluates the manpower management and organization practice of HCFA components for the purpose of identifying opportunities for improving organization structure, e.g., consolidation of functions manpower utilization, and the promulgation of guidelines to enhance management practice and insure compliance with HCFA policy. It develops, implements, and operates reporting systems that will support analysis and evaluation of HCFA manpower management and organizational practice. It is responsible for the HCFA organizational control precesses, i.e., issuance and reporting of manpower/posiiton ceiling, coordination of organization proposals and changes, issuance and development of delegations of authority, and issuance and maintenance of the official record of organization. Coordinates and monitors agency responsibilities under the Privacy Act.

OFFICE OF SYSTEMS PLANNING AND TECHNOLOGY (FAMS)

The office of Systems Planning and Technology develops and approves information systems policy for HCFA and its bureaus and offices. It coordinates and monitors the planning and objective setting of all HCFA bureaus and offices that are concerned with information and systems requirements. It directs and coordinate long-range system planning efforts within HCFA bureaus and offices that are concerned with information and systems requirements. It directs and coordinates long-range system planning efforts within HCFA. In addition, it provides leadership, implementation, and maintenance of automatic data processing, telecommunications, and teleprocessing systems, functions, and service for HCFA management, program, and administrative requirements.

DIVISION OF ADVANCED SYSTEMS PLANNING (FAMS-1)

The Advanced Systems Planning Division coordinates the planning and objective setting of all HCFA bureaus and offices that are concerned with information and system requirements. It is responsible for identifying opportunities whereby HCFA components can increase the quality and range of information via the cross utilization and/or integration of information systems. It directs and conducts comprehensive long-range systems planning efforts within HCFA. It develops the goals, objectives, policies, standards, practices, and timetables for HCFA bureau and office data and related systems for the future. It projects data and systems operational requirements over a span of 2-10 years. It develops and applies measures of systems effectiveness and directs the evaluation of system achievements in terms of progress toward attainment of HCFA objectives, recommending the adjustment of objectives, methods of attainment and/or time frames for achievement in light of current events and status. Assists the Director in structuring the issues and options for long/range data systems and process developments. It develops and maintains the total HCFA data systems and master plan; prepares the system performance and design specifications stemming from the master plan; and monitors the system and application programing efforts flowing from such specifications.

DIVISION OF SYSTEMS DEVELOPMENT AND SUPPORT (FAMS 2)

The division provides leadership, planning, policy, implementation, and maintenance of automatic data processing, telecommunication, and teleprocessing systems, functions, and services for Health Care Financing Administration management, programs, and administrative requirements. It serves as the central staff resource of technical skills involving management and computer sciences and standards development for automation. It procures, controls, and operates computerbased systems, hardward, and software within HCFA. It provides work and data preparation, processing, and communications services to HCFA. It also coordinates and disseminates HEW/HCFA ADP and communications policy.

Dated: August 28, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-24738 Filed 8-31-78; 8:45 am]

[4110-83]

Health Resources Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1978:

Name: National Council on Health Planning and Development.

Date and time: September 18, 1978, 10 a.m.-3:30 p.m.

Place: Room 425A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Open for entire meeting.

Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to: (1) The development of national guidelines under section 1501 of Pub. L. 93-641, (2) the implementation and administration of titles XV and XVI of Pub. L. 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: This meeting is called for the purpose of planning the priority of topics scheduled for full Council discussion during fiscal year 1979, and for planning the specific topics to be covered in the November 2-3 sessions of the Council.

Anyone requiring information regarding the subject Council should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7175.

Agenda items are subject to change as priorities dictate.

Dated: August 29, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-24716 Filed 8-31-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF PHENOXYBENZAMINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

Phenoxybenzamine hydrochloride (CAS 63-92-3) has been tested for cancer-causing activity with rats and mice in the carcinogenesis testing program, Division of Cancer Cause and Prevention, National Cancer Institute.

Summary. A bioassay of phenoxybenzamine hydrochloride for possible carcinogenicity was conducted by administering the test chemical by intraperitoneal injection to Sprague-Dawley rats and B6C3F1 mice.

Groups of 35 rats of each sex were administered phenoxybenzamine hydrochloride at one of two doses, either 5 or 10 mg/kg body weight, three times per week for 52 weeks, then observed for an additional 31 or 32 weeks. The vehicle used for most of the period of the bioassay was 6 percent propylene glycol in saline, although other vehicles, including 0.05 percent polysorbate 80 in saline, were used at the beginning. Controls consisted of groups of 10 vehicle controls and 10 untreated controls of each sex. All surviving rats were killed at 83 to 85 weeks.

Groups of 35 mice of each sex were administered phenoxybenzamine hydrochloride at one of two doses, either 12.5 or 25 mg/kg body weight, three times per week for 50 or 52 weeks, then observed for an additional 31 to 33 weeks. Controls consisted of groups of 15 males and 15 females which were administered the vehicle (vehicle controls), and groups of 14 males and 16 females which were untreated (untreated controls). All surviving mice were killed at 83 to 85 weeks.

Mean body weights of the low-dose male rats, low- and high-dose female rats, and low-dose male and female mice were comparable to those of the untreated and vehicle controls. The mean body weights of the high-dose male rats and the high-dose male and female mice, which died early, were lower than those of the controls.

Sarcoma of the abdominal cavity (peritoneum) was found in dosed animals of both species, but did not occur in either the untreated or vehicle controls. In male rats, this lesion occurred with a significant dose-related trend ($P<0.001$), using vehicle controls, and also at significant incidences in direct comparisons of the dosed groups with the vehicle controls (controls 0/10, low-dose 11/31, $P=0.027$; high-dose 16/20, $P<0.001$). In female rats, the lesion occurred at a significant incidence in the high-dose group compared with the vehicle controls (controls 0/9,

high-dose 16/30, P=0.004). None were observed among low-dose females.

In the mice, sarcoma of the abdominal cavity (peritoneum) occurred at a high and statistically significant incidence in the high-dose groups of each sex compared with vehicle controls (males: controls 0/15, high-dose 17/21, P<0.001; females: controls 0/13, high-dose 16/20, P<0.001). None were observed among low-dose groups. The morphology of the sarcoma was similar in the rats and the mice.

It is concluded that under the conditions of this bioassay, phenoxybenzamine hydrochloride was carcinogenic for the peritoneum of both sexes of Sprague-Dawley rats and B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-24819 Filed 8-31-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF DAMINOZIDE FOR POSSIBLE CARCINOGENICITY

Availability

Daminozide (CAS 1596-84-5) has been tested for cancer-causing activity with rats and mice in the carcinogenesis testing program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of daminozide, a plant growth regulator, for possible carcinogenicity was conducted by administering the test chemical in the diet to Fischer 344 rats and B6C3F1 mice.

Groups of 50 rats and 50 mice of each sex were administered daminozide at one of two doses, either 5,000 or 10,000 ppm, for 104 weeks, then observed for an additional week. Matched controls consisted of 20 untreated males and 20 untreated females of each species. All surviving rats and mice were killed at 105 weeks.

Mean body weights of the high-dose female mice were appreciably lower than those of the corresponding controls, while mean body weights of all other dosed groups of rats and mice were essentially unaffected. No other clinical signs related to administration of daminozide were observed. Sufficient numbers of animals in all groups of rats and mice were at risk for development of late-appearing tumors.

It is concluded that under the conditions of this bioassay, daminozide was not carcinogenic in the male Fischer 344 rats or in the female B6C3F1 mice. In male B6C3F1 mice, the data are suggestive of but do not clearly demonstrate an association of hepatocellular carcinoma induction with the administration of the test chemical. Daminozide was carcinogenic in female Fischer 344 rats, inducing adenocarcinomas of the endometrium of the uterus and leio-myosarcomas of the uterus.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-24818 Filed 8-31-78; 8:45 am]

[4110-89]

Office of Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before (30 days from date of publication in the FEDERAL REGISTER) and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: August 29, 1978.

ROLF M. WULFSBERG,
Acting Administrator, National Center for Education Statistics.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of proposed activity:* Alternate disbursement system student report for academic year 1978-79.

2. *Agency/Bureau/Office:* U.S. Office of Education/Bureau of Student Financial Assistant/Division of Program Operations/Basic Grant Branch.

3. *Agency Form No.:* OE 304-1.

4. *Legislative authority for this activity:* Sec. 411 * * * (3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purposes, in such manner as will best accomplish the purpose of this section. (Pub. L. 94-482; 20 U.S.C. 1070a.)

5. *Voluntary/obligatory nature of response:* Required to receive benefits.

6. *How information to be collected will be used:* Program management: The form will be used to collect data from BEOG recipients to request subsequent payments of their awards in postsecondary institutions that have elected not to act as a disbursing agent, thereby students receive their payments direclty from the U.S. Treasury Department. This form will ask for a minimum of information to supplement that information submitted on the application, "Request for Payment of BEOG." This information will be used to confirm the fact that the student continues to meet the eligibility requirements of the program. This form also acts as a notification of award document.

7. *Data acquisition plan:* (A) Method of collection—mail; (B) time of collection—fall, winter or spring; (C) frequency—annually.

8. *Respondents:* (A) Type—student; (B) number—20,000; (C) estimated average man-hours per respondent—5 minutes.

(A) Type—institution; (B) number—700; (C) estimated average man-hours per respondent—15 minutes.

9. *Information to be collected:* Data to be collected by applicant: (a) Applicant's signature to certify that his name, address, and social security number are accurate; (b) institution verifies information contained in section I of information regarding request for payment and (c) title telephone number, and signature of institutional official, and certification of present enrollment on request for additional payment of award.

1. *Title of proposed activity:* Financial status report and state performance reports for ESEA, title I.

2. *Agency/Bureau/Office:* U.S. Office of Education/Bureau of Elementary and Secondary Education/Division of Education for the Disadvantaged.

3. *Agency Form No.:* OE 380-1 and OE 380-2.

4. *Legislative authority for this activity:* Sec. 142(a) * * * "(3) that the State educational agency will make to the Commissioner (a) periodic reports * * *, and (b) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title * * *." (Pub. L. 89-10 as amended; 20 U.S.C. 241f.)

"The Commissioner will prescribe the frequency of the report * * * However, the report will not be required more frequently than quarterly or less frequently than annually, and a final report is required upon completion or termination of Federal support." (45 CFR 100b.403(c).)

"Except as provided * * * State agencies shall submit a performance report with each Financial Status Report * * *. (45 CFR 100b.432(b).)

5. *Voluntary/obligatory nature of response:* Required to obtain and maintain benefits.

6. *How information collected will be used:* Financial status reports will be used to monitor the expenditure and accounting for title I funds. The performance report will be used to collect statistics on the children who are receiving benefits from the Title I program. These data will be used in budget justifications, for evaluation purposes and to respond to congressional and public inquiries.

7. *Data acquisition plan:* (a) Method of collection—by mail; (b) time of collection—December 1; (c) frequency—annually.

8. *Respondents:* (a) Type—State educational agencies; (b) number—57; (c) estimated average man-hours per respondent—20.

9. Information to be collected: The total title I expenditures by program will be collected for the latest completed school year, as will adjusted expenditures for the two prior school years. The number of participating children will be collected by grade level and by type of services being received. Data will be requested on number of staff members employed with title I funds. Data on the number of parents on advisory committees and the number of other parents involved in title I programs will also be collected.

1. *Title of proposed activity:* Application for grant and loan assistance for construction, reconstruction, or renovation of academic facilities.

2. *Agency/Bureau/Office:* U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities/Academic Facilities Branch.

3. *Agency Form No.:* OE 668.

4. *Legislative authority for this activity:* Sec. 707. "Any instituion of higher education which desires to receive a grant under this part shall submit an application therefor at such time or times, in such manner, and containing such information as the Commissioner shall prescribe by regulation."

Sec. 722(a)(1). "Any institution of higher education desiring to receive a grant under this part shall submit an application therefor at such time, in such manner, and such information as the Commissioner may require." (Pub. L. 92-318; 20 U.S.C. 1132a-6, 1132b-1.)

"Each institution, cooperative graduate center board, or higher education lending agency desiring a loan for the construction, reconstruction, or renovation of academic facilities submits an application for assistance, in the manner and containing the information specified by the Commissioner." (45 CFR 170.52.)

5. *Voluntary/obligatory nature of response:* Required to obtain benefits.

6. *How information to be collected will be used:* The application will be used to determine grant and loan eligibility and the amounts of grant and loan awards.

7. *Data acquisition plan:* (a) Method of collection—mail; (b) time of collection—for the grant program, the State Higher Education Facilities Commissions will provide at least two closing dates for any Federal fiscal year. For the loan program, the closing dates will be announced by the Commissioner. All institutions of higher education will be notified by the State Higher Education Facilities Commissions as to the exact dates of application filing deadlines; (c) frequency—grant program, Twice a year; loan program, annually.

8. *Respondents:* (a) Type—colleges and universities; (b) number—3,800; (c) estimated average man-hours per respondent—8.

9. *Information to be collected:* The information required by standard form 424 and general information pertaining to type and control instituion, applicant eligibility, enrollment and utilization data, and campus-wide academic facility use.

In addition, specific project information is requested: The type of project; name of project engineer; construction schedule estimates; project background information; a plot or campus plan, as appropriate, showing contract limit lines, boundaries, and/or major improvements and project activities; a legal opinion prepared by legal counsel, describing the applicant's interest in the site and the facilities and certifying that the estate or interest is legal and valid; single line or diagrammatic drawings, showing functional layout of the facilities to be constructed, reconstructed, or renovated; outline specifications; environment assessment; relocation activities; need for flood insurance; and budget information.

1. *Title of proposed activity:* Vocational education sex equity WEECN Clearinghouse form.

2. *Agency/Bureau/Office:* Office of Education, Bureau of Occupational and Adult Education.

3. *Agency form No.:* OE Form 669.

4. *legislative authority for this activity:* "Section 104(b)(1) Any state desiring to participate in the programs authorized by this Act shall also assign such full time personnel as may be necessary to assist the State board in fulfilling the purposes of this Act by—(A) taking such action as may be necessary to create awareness of programs and activities in vocational education that are designed to reduce sex stereotyping in all vocational education programs * * *." (Pub. L. 94-482, Title II, Section 202; 20 U.S.C. 2304.)

5. *Voluntary/obligatory nature of response:* Voluntary.

6. *How information collected will be used:* Information will be compiled and disseminated to avoid duplication of effort in research and to keep the vocational education community apprised of what is being done as well as what has been done.

7. *Data acquisition plan:* (a) Method of collection—mail; (b) time of collection—winter, spring, summer, fall; (c) frequency—quarterly.

8. *Respondents:* (a) Type—State vocational education directors, (equity coordinators); (b) number—51; (c) estimated average man-hours per respondent.—1.

9. *Information to be collected:* Synopses of projects instruments, etc., which are related to furthering sex equity in vocational education.

1. *Title of proposed activity:* Verification of receipt of Federal funds.

2. *Agency/Bureau/Office:* U.S. Office of Education (Deputy for Management Evaluation and Budget).

3. *Agency form No.:* OE 670.

4. *Legislative authority for this activity:* Pub. L. 88-352 as amended by

92-318; Title IX Section 901—)Prohibition of Sex Discrimination * * *. Section 901 requirements are carried out by section 902, issued in 45 CFR by the Department of HEW. Section 86.4 of part 86 requires that every application for Federal financial assistance for any education program or activity shall, as a condition of its approval, contain or be accompanied by an assurance from the applicant satisfactory to the Director of the Office for Civil Rights (hereinafter the "Director") that each education program or activity operated by the applicant and to which title IX of the Education Amendments of 1972 and part 86 apply will be operated in compliance with part 86.

5. *Voluntary/obligatory nature of response:* Voluntary.

6. *How information collected will be used:* Management accountability for title IX assurance: To verify receipt or nonreceipt of Federal funds.

7. *Data acquisition plan:* (A) Method of collection—mail; (B) time of collection—fall 1978; (C) frequency—annually.

8. *Respondents:* (A) Type—State education agency; (B) number—56; (C) estimated average man-hours per respondent—One-twelfth hour (5 minutes).

9. *Information to be collected:* Statement that an LEA did or did not receive Federal funds in fiscal year 1978. This information will provide Office of Civil Rights with verification that LEA's who have not submitted a title IX assurance in fact, do not need to, since they have not received any Federal funds.

[FR Doc. 78-24755 Filed 8-31-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 34285]

NEW MEXICO

Application

4August 24, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 8⅝-inch natural gas pipeline and related facilities right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N.M.

T. 26 S., R. 37 E.,
Sec. 13, S½S½;
Sec. 14, SE¼SW¼ and S½SE¼.

This pipeline will convey natural gas across 1.377 miles of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24652 Filed 8-31-78; 8:45 am]

[4310-84]

[Wyoming 64958]

WYOMING

Application

AUGUST 22, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipeline Co. of Casper, Wyo., filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting oil and other synthetic liquid fuels, and related facilities across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 46 N., R. 92 W.,
Sec. 12, lot 4;
Sec. 13, lot 1 and NW¼NE¼.

The proposed pipeline will transport oil and other synthetic liquid fuels, and related facilities from the Altus No. 13-3 well located in the NW¼NE¼ of section 13 to a point of connecting with a pipeline in lot 4 of section 12, T. 46 N., R. 92 W., Washakie County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue., P.O. Box 119, Worland, Wyo. 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-24653 Filed 8-31-78; 8:45 am]

[4310-84]

Bureau of Land Management

[F-14838-A]

Alaska Native Claims Selection

On March 29, 1968, the State filed a general purposes grant selection application pursuant to section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)), for certain lands in the Bethel area.

On November 22, 1974, Bethel Native Corp. filed selection application F-14838-A, as amended, under the provisions of section 12(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (Supp. V, 1975)), for the surface estate of lands located in the Bethel area.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by section 11(a). Section 11(a)(2) withdrew for possible selection by the Native corporation those lands described in section 11(a)(1) that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act. Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by section 11(a)(2). Section 26 of the Alaska Native Claims Settlement Act further provides that to the extent that there is a conflict between any provisions of that act and any other Federal laws applicable to Alaska, the provisions of the Alaska Native Claims Settlement Act shall govern.

The State selected lands listed below were subsequently properly selected by Bethel Native Corp. in village selection application F-14838-A; accordingly, State selection application F-905 is hereby rejected as to the following described lands:

Lot 1 of U.S. Survey No. 3799, situated on the southwest shore of Hangar Lake and approximately 1 mile northeast of the townsite of Bethel, Alaska.

Containing 5.25 acres.

Lot 2 of U.S. Survey No. 4440, situated at Bethel, Alaska.

Containing 0.15 acre.

The below described portion of U.S. Survey No. 4117, located approximately 1 mile west of Bethel, Alaska, on both sides of the Bethel-Airport road:

Lot 1;
Lots 4, 5, and 7, excluding Native allotment F-16135;
Lot 12;
Lot 13, excluding Native allotment F-16601 parcel B;
Lot 18;
Lot 27, excluding Native allotment F-16169;
Lot 28, excluding Native allotments F-16601 parcel A and F-16162;

Lots 29 and 30, excluding Native allotment F-16162;
Lot 34, excluding Native allotments F-16169 and F-16601 parcel A.

Containing approximately 126.28 acres.

SEWARD MERIDIAN, ALASKA

T. 9 N., R. 70 W. (surveyed),
Sec. 31, excluding Native allotments F-13803, F-16146 parcels A and B and lands formerly within Native allotment F-14179;
Sec. 32, excluding Native allotments F-13803, F-17468 parcel A, lands formerly within Native allotment F-14179 and Patent No. 50-78-0023;
Sec. 33, excluding Native allotment F-16143 and Patent No. 50-78-0023.

Containing approximately 1,159.52 acres.

T. 9 N., R. 70 W. (unsurveyed),
Secs. 19, 20, and 21, all;
Secs. 28, 29, and 30, all.

Containing approximately 3,833 acres.

T. 8 N., R. 71 W. (surveyed),
Sec. 2, excluding Native allotments F-16150 and F-16153 parcel B and the Kuskokwim River;
Sec. 3, excluding Native allotments F-13339, F-13340, F-16153 parcel B, Patent No. 50-78-0023 and Hangar Lake;
Sec. 4, excluding Native allotments F-13339, F-13803, F-15828 parcel A, F-16161 parcel B, and F-16167;
Sec. 5, excluding Native allotments F-16132, F-18319 and Patent Nos. 50-76-0278 and 50-78-0011;
Sec. 6, excluding Native allotment F-16126 and Patent Nos. 50-78-0011 and 50-78-0025;
Sec. 7, excluding U.S. Survey Nos. 3729 and 4117 and Native allotments F-13872, F-16162, F-16193 parcel A, and F-17471 parcel A;
Sec. 9, excluding U.S. Survey Nos. 870, 1002, 3046, 3230, 3790, and 4440, Native allotment F-16153 parcel A, Bethel Swampy Lake and the Kuskokwim River;
Sec. 10, excluding U.S. Survey Nos. 3790 and 3799, Native allotment F-16157, Bethel Swampy Lake and Hangar Lake;
Sec. 11, excluding Native allotments F-16157, F-17926 parcel A, F-18061 parcel B and the Kuskokwim River and unnamed slough;
Sec. 12, excluding Native allotment F-18061 parcel B and the Kuskokwim River;
Sec. 13, excluding Native allotments F-13605, F-17923 parcel B, Steamboat Slough and the Kuskokwim River;
Sec. 14, excluding U.S. Survey No. 4046, Native allotments F-13605, F-16129 parcel A, F-16153 parcel C, F-16156 parcel A, F-16605 parcel A, F-16949 parcel B, F-17923 parcel B, Steamboat Slough, unnamed slough and the Kuskowim River;
Sec. 15, all lands extending north of the west (right) bank of the Kuskokwim River, excluding Native allotment F-16605 parcel A;
Sec. 16, all lands extending north of the west (right) bank of the Kuskokwim River, excluding U.S. Survey Nos. 870 and 1002 and Native allotment F-16337 parcel B;
Sec. 17, all lands extending west of the west (right) bank of the Kuskokwim River, excluding U.S. Survey Nos. 870, 3770, 4000 (ANCSA sec. 3(e) application AA-18959) and 4117 and Native allotments F-16135 and F-16601 parcel B;
Sec. 18, excluding U.S. Survey Nos. 3729 and 4117, Native allotments F-16127, F-16162, and F-16169;
Sec. 19, excluding Native allotments F-13966, F-16127, F-16131, F-16165, F-16169, F-16170, and F-16600 parcel A;
Sec. 20, all lands extending west of the west (right) bank of the Kuskokwim River, excluding Native allotments F-027946 parcel B, F-031372 parcel B, F-13802, F-16165, F-16170, F-17334 parcel A, and F-17922 parcel A;
Sec. 21, all lands extending west of the west (right) bank of the Kuskokwim River, excluding Native allotments F-13802, F-14389 parcel A, F-14980 parcel D, F-15937 parcel A, F-16168, F-16905 parcel B, F-17927 parcel B, and unnamed sloughs;
Secs. 23 and 24, all lands extending north of the west (right) bank of the Kuskokwim River, excluding Native allotment F-17923 parcel B;
Sec. 28, all lands extending west of the west (right) bank of the Kuskokwim River, excluding Native allotments F-14175, F-14980 parcel D, F-16905 parcel B, F-17927 parcel B, F-18198 parcel B, and F-19020 and unnamed sloughs;
Sec. 29, excluding Native allotments F-13873 parcel A, F-16149 parcel A, F-16824 parcel A, F-17468 parcel B, F-18060 parcel A, and F-19020;
Sec. 30, excluding Native allotments F-16149 parcel A, F-17468 parcel B, and F-18060 parcel A;
Sec. 31, excluding Native allotments F-16335 and F-16609;
Sec. 32, excluding Native allotments F-16335 and F-16824 parcel A and unnamed slough;
Sec. 33, all lands extending west of the west (right) bank of the Kuskokwim River, excluding Native allotment F-18298 parcel A and unnamed sloughs;
Sec. 34, all lands extending west of the west (right) bank of the Kuskokwim River, excluding Native allotment F-18298 parcel A.

Containing approximately 6,174.81 acres.

T. 9 N., R. 71 W. (surveyed),
Sec. 27, excluding Native allotments F-16166 and F-16612 parcel B;
Sec. 34, excluding Native allotment F-16612 parcel B;
Sec. 35, excluding Native allotments F-16125 and F-16159;
Sec. 36, excluding Native allotments F-16955 parcel C and F-17896.

Containing approximately 1,820 acres.

T. 9 N., R. 71 W. (unsurveyed),
Secs. 22 to 26, inclusive, all.

Containing approximately 3,200 acres.

T. 8 N., R. 72 W., (surveyed)
Sec. 1, excluding Native allotments F-15591, F-15830 parcel B, F-16125, Patent No. 50-78-0025 and lands formerly within Native allotment F-16124;
Sec. 2, excluding Native allotments F-15765 parcel A, F-16956 and lands formerly within Native allotments F-16124 and F-16174 parcel A;
Sec. 3, excluding Native allotments F-16136, F-16154, F-16908, and lands formerly within Native allotments F-16174 parcel B and F-16957;
Sec. 10, excluding Native allotments F-15922, F-16336 parcel B, F-16824 parcel B, F-16950 parcel B, F-17469 parcel C and lands formerly within Native allotment F-16957;
Sec. 11, excluding Native allotments F-16137, F-16336 parcel B, F-16955 parcels B and D, F-18061 parcel A, F-18062 parcel B and Public Land Order Nos. 3445 and 3956;
Sec. 12, excluding Native allotments F-13872, F-16128, F-16158 and U.S. Survey Nos. 3729 and 4383;
Sec. 13, excluding Native allotment F-16127 and U.S. Survey Nos. 3729 and 4117;
Sec. 14, excluding U.S. Survey No. 3729 and Public Land Order Nos. 3445 and 3956;
Sec. 15, excluding Native allotments F-16824 parcel B, F-16844 and Public Land Order No. 3956;
Sec. 22, excluding Native allotments F-15765 parcel B, F-16134, and F-16151;
Sec. 23, excluding Native allotments F-15737, F-16147, F-16148 and U.S. Survey No. 3729;
Sec. 24, excluding Native allotments F-13966, F-15069, F-15714, F-16127 and U.S. Survey No. 3729;
Sec. 25, excluding Native allotments F-16161 parcel C, F-16163 and lands formerly within Native allotment F-16152;
Sec. 26, excluding Native allotment F-16164;
Sec. 27, excluding Native allotments F-15767, F-16141 and lands formerly within Native allotment F-16140;
Sec. 35, excluding Native allotment F-16825;
Sec. 36, excluding Native allotments F-16609, F-16825, and F-17515 parcel A.

Containing approximately 4,508.22 acres.

T. 8 N., R. 72 W. (unsurveyed),
Sec. 34, all.

Containing approximately 640 acres.

Aggregating approximately 21,467.23 acres.

In addition, the State of Alaska amended selection application F-905 on June 16, 1972, to include additional public lands. These lands were withdrawn for Native selection by section 11(a)(1) of the Alaska Native Claims Settlement Act at that time and, therefore, were not available for selection by the State of Alaska. In view of this, State selection application F-905 is hereby further rejected as to the following described lands:

That portion of tract A of U.S. Survey No. 2639, situated on the left bank of the Kuskokwim River, opposite the town of Bethel, Alaska, excluding Air Navigation Site 146 (F-028822) and Native allotments F-14215 parcel A, F-16161 parcel A, F-16191 parcel A, F-16338 parcel A, F-16612 parcel A, F-17471 parcel B, F-18060 parcel B, and F-19036.

Containing approximately 1,419.64 acres.

SEWARD MERIDIAN, ALASKA

T. 9 N., R. 70 W. (unsurveyed),
Secs. 1 to 11, inclusive, all;
Sec. 12, excluding the Gweek (Kweek) River;
Sec. 13, excluding Native allotment F-13945 and the Gweek (Kweek) River;

Sec. 14, excluding Native allotment F-16130;
Secs. 15 to 18, inclusive, all;
Sec. 22, excluding Native allotment F-13969 parcel A;
Sec. 23, excluding Native allotments F-13969 parcel A and F-18063;
Sec. 24, excluding Native allotment F-13967 and the Kuskokwim and Gweek (Kweek) Rivers;
Sec. 25, excluding Native allotments F-15829 and F-17928 parcel A and the Kuskokwim River;
Sec. 26, excluding Native allotment F-18063 and the Kuskokwim River;
Sec. 27, excluding The Kuskokwim River;
Sec. 34, excluding the Kuskokwim River;
Sec. 35, excluding Native allotment F-16145 and the Kuskokwim River;
Sec. excluding Native allotment F-16145.

Containing approximately 14,928 acres.

T. 8 N., R. 71 W. (surveyed),
Sec. 15, lots 4 and 7;
Sec. 16, lots 5, 6, and 12, excluding Native allotment F-13968;
Sec. 21, lots 1, 2, 5, and 6;
Sec. 27, lots 1 and 2, excluding Native allotment F-17496 parcel A;
Sec. 28, lots 11, 12, and 20, excluding Native allotment F-17496 parcel A;
Sec. 33, lot 1;
Sec. 34, lots 3, 4, and 5.

Containing approximately 214.21 acres.

T. 8 N., R. 71 W. (unsurveyed),
Sec. 1, excluding the Kuskokwim River;
Secs. 12 and 13, excluding Church Slough and the Kuskokwim River;
Sec. 15, excluding tracts A and B of U.S. Survey No. 2639, Native allotments F-14215 parcel A and F-17471 parcel B and the Kuskokwim River;
Sec. 21, excluding tract A of U.S. Survey No. 2639, Native allotments of F-16161 parcel A and F-19036 and the Kuskokwim River;
Sec. 22, excluding tracts A and B of U.S. Survey No. 2639, Native allotments F-14215 parcel A, F-14564 parcel B, F-16191 parcel A and F-16612 Parcel A and the Kuskokwim River;
Sec. 23, excluding tracts A and B of U.S. Survey No. 2639, Native allotments F-16338 parcel A and F-18060 parcel B and the Kuskokwim River;
Sec. 24, excluding Native allotment F-16338 parcel A and the Kuskokwim River;
Secs. 25 and 26, excluding tract A of U.S. Survey No. 2639, Native allotment F-16338 parcel A and Tupuknuk Slough;
Sec. 27, excluding tract A of U.S. Survey No. 2639, Native allotment F-14564 parcel B and the Kuskokwim River;
Sec. 34, excluding the Kuskokwim River;
Sec. 35, excluding tract A of U.S. Survey No. 2639 and Tupuknuk Slough;
Sec. 36, excluding tract A of U.S. Survey No. 2639, Native allotment F-16828 parcel A and Tupuknuk Slough.

Containing approximately 2, 943 acres.

T. 9 N., R. 71 W. (surveyed),
Sec. 28, excluding Native allotment F-16156 parcel B;
Sec. 29, excluding Native allotment F-16129 parcel C;
Sec. 32, excluding Native allotment F-16156 parcel B;
Sec. 33, excluding Native allotment F-16156 parcel B and lands formerly within Native allotment F-16174 parcel A.

Containing approximately 2,320 acres.

T. 9 N., R. 71 W. (unsurveyed),
Secs. 1 to 21, inclusive, all;
Secs. 30 and 31, all.

Containing approximately 14,688 acres.

T. 8 N., R. 72 W. (surveyed),
Sec. 4, excluding Native allotment F-16136 and Patent No. 50-78-0004;
Sec. 9, excluding Native allotment F-16950 parcel A;
Sec. 16, excluding Native allotments F-15758 parcel B, F-16138, F-16183 parcel B and additional lands formerly within Native allotment F-16193 parcel B;
Sec. 17, excluding Native allotments F-16139, F-16142 and Patent No. 50-78-0009;
Sec. 20, excluding Native allotment F-16758 parcel B and Patent No. 50-78-0008;
Sec. 21, excluding Native allotments F-16138, F-16151, and F-16758 parcel B.

Containing approximately 2,240.62 acres.

T. 8 N., R. 72 W. (unsurveyed),
Secs. 5 to 8, inclusive, all;
Secs. 18 and 19, all;
Secs. 28 to 33, inclusive, all.

Containing approximately 7,465 acres.

Aggregating approximately 46,218.47 acres.

As to the lands described below, the application, as amended, submitted by Bethel Native Corp., is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

This decision approves approximately 21,467.23 acres of land, that has been properly selected by the State of Alaska, for conveyance to Bethel Native Corp., for a cumulative total of approximately 21,467.23 acres. This does not exceed the 69,120 acres permitted under section 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 138,328.70 acres, is considered proper for acquisition by Bethel Native Corp. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Lot 1 of U.S. Survey No. 3799, situated on the southwest shore of Hangar Lake and approximately 1 mile northeast of the townsite of Bethel, Alaska.

Containing 5.25 acres.

Lot 2 of U.S. Survey No. 4440, situated at Bethel, Alaska.

Containing 0.15 acres.

That portion of tract A of U.S. Survey No. 2639, situated on the left bank of the Kuskokwim River, opposite the town of Bethel, Alaska, excluding Air Navigation Site 146 (F-028822) and Native allotments F-14215 parcel A, F-16161 parcel A, F-16191 parcel A, F-16338 parcel A, F-16612 parcel A, F-17471 parcel B, F-18060 parcel B, and F-19036.

Containing approximately 1,419.64 acres.

The below described portion of U.S. Survey No. 4117, located approximately 1 mile west of Bethel, Alaska, on both sides of the Bethel-Airport Road:

Lot 1;
Lots 4, 5, and 7, excluding Native allotment F-16135;
Lot 12;
Lot 13, excluding Native allotment F-16601 parcel B;
Lot 18;
Lot 27, excluding Native allotment F-16169;
Lot 28, excluding Native allotments F-16601 parcel A and F-16162;
Lots 29 and 30, excluding Native allotment F-16162;
Lot 34, excluding Native allotments F-16169 and F-16601 parcel A.

Containing approximately 126.28 acres.

SEWARD MERIDIAN, ALASKA

T. 9 N., R. 69 W. (unsurveyed),
Sec. 28, all;
Sec. 29, excluding the Kuskokwim River;
Sec. 30, excluding Native allotments F-13969 parcel B and F-17928 parcel A and the Kuskokwim River;
Secs. 31 and 32, excluding the Kuskokwim River;
Sec. 33, all.

Containing approximately 2,929 acres.

T. 8 N., R. 70 W. (unsurveyed),
Secs. 5 to 8, inclusive, excluding Church Slough;
Sec. 17, excluding the Tupuknuk Slough;
Sec. 18, excluding the Kuskokwim River and the Church and Tupuknuk Sloughs;
Sec. 19, excluding the Kuskokwim River and the Tupuknuk Slough;
Sec. 20, excluding the Tupuknuk Slough;
Sec. 29, excluding Native allotment F-17056 parcel A;
Sec. 30, excluding tract A of U.S. Survey No. 2639 and the Tupuknuk Slough;
Sec. 31, excluding tract A of U.S. Survey No. 2639 and Tupuknuk Slough;
Sec. 32, all.

Containing approximately 7,100 acres.

T. 9 N., R. 70 W. (surveyed),
Sec. 31, excluding Native allotments F-13803, F-16146 parcels A and B and lands formerly within Native allotment F-14179;
Sec. 32, excluding Native allotments F-13803, F-17468 parcel A, lands formerly within Native allotment F-14179, and patent No. 50-78-0023;
Sec. 33, excluding Native allotment F-16143 and patent No. 50-78-0023.

Containing approximately 1,159.52 acres.

T. 9 N., R. 70 W. (unsurveyed),
Secs. 1 to 11, inclusive, all;
Sec. 12, excluding the Gweek (Kweek) River;
Sec. 13, excluding Native allotment F-13945 and the Gweek (Kweek) River;
Sec. 14, excluding Native allotment F-16130;
Sec. 15 to 21, inclusive, all;
Sec. 22, excluding Native allotment F-13969 parcel A;
Sec. 23, excluding Native allotments F-13969 parcel A and F-18063;

Sec. 24, excluding Native allotment F-13967 and the Kuskokwim and Gweek (Kweek) Rivers;
Sec. 25, excluding Native allotments F-15829 and F-17928 parcel A and the Kuskokwim River;
Sec. 26, excluding Native allotment F-18063 and the Kuskokwim River;
Sec. 27, excluding the Kuskokwim River;
Secs. 28, 29, and 30, all;
Sec. 34, excluding the Kuskokwim River;
Sec. 35, excluding Native allotment F-16145 and the Kuskokwim River;
Sec. 36, excluding Native allotment F-16145.

Containing approximately 18,761 acres.

T. 10 N., R. 70 W. (unsurveyed),
Secs. 1 to 36, inclusive, all.

Containing approximately 22,947 acres.

T. 8 N., R. 70 W. (surveyed),
Sec. 2, excluding Native allotments F-16150 and F-16153 parcel B and the Kuskokwim River;
Sec. 3, excluding Native allotments F-13339, F-13340, F-16153 parcel B, patent No. 50-78-0023, and Hangar Lake;
Sec. 4, excluding Native allotments F-13339, F-13803, F-15828 parcel A, F-16161 parcel B, and F-16167;
Sec. 5, excluding Native allotments F-16132, F-18319, and patent Nos. 50-76-0278 and 50-78-0011;
Sec. 6, excluding Native allotment F-16126 and patent Nos. 50-78-0011 and 50-78-0025;
Sec. 7, excluding U.S. Survey Nos. 3729 and 4117 and Native allotments F-13872, F-16162, F-16193 parcel A, and F-17471 parcel A;
Sec. 9, excluding U.S. Survey Nos. 870, 1002, 3046, 3230, 3790, and 4440, Native allotment F-16153 parcel A, Bethel Swampy Lake and the Kuskokwim River;
Sec. 10, excluding U.S. Survey Nos. 3790 and 3799, Native allotment F-16157, Bethel Swampy Lake and Hangar Lake;
Sec. 11, excluding Native allotments F-16157, F-17926 parcel A, F-18061 parcel B, and the Kuskokwim River and unnamed slough;
Sec. 12, excluding Native allotment F-18061 parcel B and the Kuskokwim River;
Sec. 13, excluding Native allotments F-13605, F-17923 parcel B, Steamboat Slough, and the Kuskokwim River;
Sec. 14, excluding U.S. Survey No. 4046, Native allotments F-13605, F-16129 parcel A, F-16153 parcel C, F-16156 parcel A, F-16605 parcel A, F-16949 parcel B, F-17923 parcel B, Steamboat Slough, unnamed slough, and the Kuskokwim River;
Sec. 15, excluding Native allotment F-16605 parcel A, unnamed slough, and the Kuskokwim River;
Sec. 16, excluding U.S. Survey Nos. 870 and 1002, Native allotments F-13968, F-16337 parcel B, F-18320 parcel A, and the Kuskokwim River;
Sec. 17, excluding U.S. Survey Nos. 870, 3770, 4000 (ANCSA sec. 3(e) application AA-18959) and 4117, Native allotments F-16135, F-16601 parcel B, and F-18320 parcel A, and the Kuskokwim River;
Sec. 18, excluding U.S. Survey Nos. 3729 and 4117, Native allotments F-16127, F-16162, and F-16169;
Sec. 19, excluding Native allotments F-13966, F-16127, F-16131, F-16165, F-16169, F-16170, and F-16600 parcel A;
Sec. 20, excluding Native allotments F-027946 parcel B, F-031372 parcel B, F-13802, F-16165, F-16170, F-17334 parcel A, F-17922 parcel A, and F-18320 parcel A, and the Kuskokwim River;
Sec. 21, excluding Native allotments F-13802, F-14389 parcel A, F-14980 parcel D, F-15937 parcel A, F-16168, F-16905 parcel B, F-17927 parcel B, and F-18320 parcel A, and unnamed sloughs, and the Kuskokwim River;
Secs. 23 and 24, excluding Native allotment F-17923 parcel B and the Kuskokwim River;
Sec. 27, excluding Native allotment F-17496 parcel A and the Kuskokwim River;
Sec. 28, excluding Native allotments F-14175, F-14980 parcel D, F-16905 parcel B, F-17496 parcel A, F-17927 parcel B, F-18198 parcel B, and F-19020, and unnamed sloughs, and the Kuskokwim River;
Sec. 29, excluding Native allotments F-13873 parcel A, F-16149 parcel A, F-16824 parcel A, F-17468 parcel B, F-18060 parcel A, and F-19020;
Sec. 30, excluding Native allotments F-16149 parcel A, F-17468 parcel B, and F-18060 parcel A;
Sec. 31, excluding Native allotments F-16335 and F-16609;
Sec. 32, excluding Native allotments F-16335 and F-16824 parcel A and unnamed slough;
Sec. 33, excluding Native allotment F-18298 parcel A, unnamed sloughs, and the Kuskokwim River;
Sec. 34, excluding Native allotments F-16907 parcel B and F-18298 parcel A and the Kuskokwim River.

Containing approximately 6,389.02 acres.

T. 8 N., R. 71 W. (unsurveyed),
Sec. 1, excluding the Kuskokwim River;
Secs. 12 and 13, excluding Church Slough and the Kuskokwim River;
Sec. 15, excluding tracts A and B of U.S. Survey No. 2639, Native allotments F-14215 parcel A and F-17471 parcel B and the Kuskokwim River;
Sec. 21, excluding tract A of U.S. Survey No. 2639, Native allotments F-16161 parcel A and F-19036 and the Kuskokwim River;
Sec. 22, excluding tracts A and B of U.S. Survey No. 2639, Native allotments F-14215 parcel A, F-14564 parcel B, F-16191 parcel A, and F-16612 parcel A, and the Kuskokwim River;
Sec. 23, excluding tracts A and B of U.S. Survey No. 2639, Native allotments F-16338 parcel A and F-18060 parcel B and the Kuskokwim River;
Sec. 24, excluding Native allotment F-16338 parcel A, and the Kuskokwim River;
Secs. 25 and 26, excluding tract A of U.S. Survey No. 2639, Native allotment F-16338 parcel A, and Tupuknuk Slough;
Sec. 27, excluding tract A of U.S. Survey No. 2639, Native allotment F-14564 parcel B, and the Kuskokwim River;
Sec. 34, excluding the Kuskokwim River;
Sec. 35, excluding tract A of U.S. Survey No. 2639 and Tupuknuk Slough;
Sec. 36, excluding tract A of U.S. Survey No. 2639, Native allotment F-16828 parcel A, and Tupuknuk Slough.

Containing approximately 2,943 acres.

T. 9 N., R. 71 W. (surveyed),
Sec. 27, excluding Native allotments F-16166 and F-16612 parcel B;
Sec. 28, excluding Native allotment F-16156 parcel B;
Sec. 29, excluding Native allotment F-16129 parcel C;
Sec. 32, excluding Native allotment F-16156 parcel B;
Sec. 33, excluding Native allotment F-16156 parcel B; and lands formerly within Native allotment F-16174 parcel A;
Sec. 34, excluding Native allotment F-16612 parcel B;
Sec. 35, excluding Native allotments F-16125 and F-16159;
Sec. 36, excluding Native allotments F-16955 parcel C and F-17896.

Containing approximately 4,140 acres.

T. 9 N., R. 71 W. (unsurveyed),
Secs. 1 to 26, excludive, all;
Sec. 30 and 31, all.

Containing approximately 17,888.

T. 10 N., R. 71 W. (unsurveyed),
Secs. 1 to 36, inclusive, all.

Containing approximately 22,947 acres.

T. 8 N., R. 72 W. (surveyed),
Sec. 1, excluding Native allotments F-15591, F-15830 parcel B, F-16125, patent No. 50-78-0025, and lands formerly within Native allotment F-16124;
Sec. 2, excluding Native allotments F-15765 parcel A, F-16956, and lands formerly within Native allotments F-16124 and F-16174 parcel A;
Sec. 3, excluding Native allotments F-16136, F-16154, F-16908, and lands formerly within Native allotments F-16174 parcel B and F-16957;
Sec. 4, excluding Native allotment F-16136 and patent No. 50-78-0004;
Sec. 9, excluding Native allotment F-16950 parcel A;
Sec. 10, excluding Native allotments F-15922, F-16336 parcel B, F-16824 parcel B, F-16950 parcel B, F-17469 parcel C, and lands formerly within Native allotment F-16957;
Sec. 11, excluding Native allotments F-16137, F-16336 parcel B, F-16955 parcels B and D, F-18061 parcel A, F-18062 parcel B, and Public Land Order Nos. 3445 and 3956;
Sec. 12, excluding Native allotments F-13872, F-16128, F-16158, and U.S. Survey Nos. 3729 and 4383;
Sec. 13, excluding Native allotment F-16127, U.S. Survey Nos. 3729 and 4117;
Sec. 14, excluding U.S. Survey No. 3729 and Public Land Order Nos. 3445 and 3956;
Sec. 15, excluding Native allotments F-16824 parcel B, F-16844, and Public Land Order No. 3956;
Sec. 16, excluding Native allotments F-15758 parcel B, F-16138, F-16193 parcel B, and additional lands formerly within Native allotment F-16193 parcel B;
Sec. 17, excluding Native allotments F-16139, F-16142, and patent No. 50-78-0009;
Sec. 20, excluding Native allotment F-16758 parcel B and patent No. 50-78-0008;
Sec. 21, excluding Native allotments F-16138, F-16151 and F-16758 parcel B;
Sec. 22, excluding Native allotments F-15765 parcel B, F-16134 and F-16151;

Sec. 23, excluding Native allotments F-15737, F-16147, F-16148, and U.S. Survey No. 3729;
Sec. 24, excluding Native allotments F-13966, F-15069, F-15714, F-16127, and U.S. Survey No. 3729;
Sec. 25, excluding Native allotments F-16161 parcel C, F-16163, and lands formerly within Native allotment F-16152;
Sec. 26, excluding Native allotment F-16164;
Sec. 27, excluding Native allotments F-15767, F-16141, and lands formerly within Native allotment F-16140;
Sec. 35, excluding Native allotment F-16825;
Sec. 36, excluding Native allotments F-16609, F-16825 and F-17515 parcel A.

Containing approximately 6,748.84 acres.

T. 8 N., R. 72 W. (unsurveyed),
Secs. 5 to 8, inclusive, all;
Secs. 18 and 19, all;
Secs. 28 to 34, inclusive, all.

Containing approximately 8,105 acres.

T. 9 N., R. 72 W. (unsurveyed),
Secs. 1 and 2, all;
Secs. 11 and 14, inclusive, all;
Secs. 23 to 26, inclusive, all;
Sec. 36, all.

Containing approximately 7,040 acres.

T. 10 N., R. 72 W. (unsurveyed),
Secs. 1 and 2, all;
Secs. 11 to 14, inclusive, all;
Secs. 23 to 26, inclusive, all;
Secs. 35 and 36, all.

Containing approximately 7,680 acres.
Aggregating approximately 138,328.70 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. That right-of-way F-031635 and all appurtenances thereto, constructed by the United States through, over, or upon lot 2 and NW¼NW¼ of sec. 13 and sec. 14, T. 8 N., R. 72 W., Seward Meridian, and the right of the United States, its agents or employees to maintain, operate, repair or improve the same so long as needed or used for or by the United States;

2. That right-of-way F-034653 and all appurtenances thereto, constructed by the United States through, over, or upon lot 1, sec. 13, T. 8 N., R. 72 W., Seward Meridian, and the right of the United States, its agents or employees to maintain, operate, repair or improve the same so long as needed or used for or by the United States;

3. That right-of-way F-028823 and all appurtenances thereto, constructed by the United States through, over, or upon Tract A of U.S. Survey No. 2639 within T. 8 N., R. 71 W., Seward Meridian, and the right of the United States, its agents or employees to maintain, operate, repair or improve the same so long as needed or used for or by the United States;

4. A right-of-way, F-027002, for a Federal aid highway. Act of November 9, 1921, as amended (72 Stat. 885; 23 U.S.C. 317);

5. A right-of-way, F-543, containing approximately 48.346 acres, within lots 6 and 7 of sec. 12 and lot 1 and NW¼NW¼ of sec. 13, T. 8 N., R. 72 W., Seward Meridian, for a Federal aid material site. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

6. A right-of-way, F-1021, containing approximately 19.504 acres, within lots 27, 28, and 34, U.S Survey No. 4117, for a Federal aid material site. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

7. A right-of-way, F-1031, for a Federal aid secondary highway. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

8. A right-of-way, F-10382, containing approximately 1.071 acres, within lot 28, U.S. Survey No. 4117, for a Federal aid material site. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

9. A right-of-way, F-11661, for a Federal aid secondary highway. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

10. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

11. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file F-14838-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 3 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from road easement EIN 16a C4 at H-Marker Lake northwesterly to Kasigluk. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 5 D1) An easement for an existing access trail twenty-five (25) feet in width from Hanger Lake and site easement EIN 13 C4 northeasterly to Akiachak. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 6 D1, E) An easement for an existing access trail twenty-five (25) feet in width from Bethel southwesterly to Napakiak. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

d. (EIN 8 C3, D1, D9, E) An easement for an existing access trail twenty-five (25) feet in width from the barge landing site in sec. 15, T. 8 N., R. 71 W., Seward Meridian, southerly along the existing road to Oscarville trail easement EIN 1 D9, D1, C3. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

e. (EIN 13 C4) A two (2) acre site easement upland of the ordinary high water mark in sec. 10, T. 8 N., R. 71 W., Seward Meridian, on the southwest shore of Hanger Lake within lot 1 of U.S. Survey No. 3799. The site is for camping, staging and vehicle use.

f. (EIN 13a C4) An easement sixty (60) feet in width for an existing road from Brown Slough bridge northeasterly to site easement EIN 13 C4 for access between Bethel and the site at Hangar Lake. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

g. (EIN 15 C) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

h. (EIN 16 C4) A site easement upland of the ordinary high water mark in sec. 7, T. 8 N., R. 71 W., Seward Meridian, on the north shore of H-Marker Lake. The site is two (2) acres in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The site is for camping, staging and vehicle use.

i. (EIN 16a C4) An easement sixty (60) feet in width for an existing road from the road between Bethel and the Air force station, northeasterly to H-Marker Lake and site easement EIN 16 C4, for access between Bethel and the site easement on the lake. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

j. (EIN 17 C4) An easement for an existing access trail twenty-five (25) feet in width from Bethel southeasterly to Oscarville trail easement EIN 6 C4 which provides access to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

k. (EIN 18 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

l. (EIN 21 C4) An easement for an existing underground communication cable ten (10) feet in width from the west boundary of the State of Alaska, Department of Aviation's (now Department of Transportation and Public Facilities) Tract No. 1 (PLO 1173) in sec. 13, T. 8 N., R. 72 W., Seward Meridian, northwesterly to the Bethel "H" Marker Site within the FAA withdrawal (PLO 3445) in sec. 14, T. 8 N., R. 72 W., Seward Meridian. The usage will be controlled by applicable State or Federal law or regulation.

m. (EIN 22 C4) An easement for an existing communication cable ten (10) feet in width from sec. 17, T. 8 N., R. 71 W., Seward Meridian, westerly to the Bethel Air Force site withdrawal (PLO 3956) in sec. 15, T. 8 N., R. 72 W., Seward Meridian. The usage will be controlled by applicable State or Federal law or regulation.

n. (EIN 23 C4) An easement sixty (60) feet in width for an existing road from the State maintained road in sec. 12, T. 8 N., R. 72 W., Seward Meridian, westerly to the Bethel Air Force site withdrawal (PLO 3956) in sec. 15, T. 8 N., R. 72 W. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

These reservations have not been conformed to the departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al.* v.

Andrus and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. Free use permit AA-9587, to Kuskokwim Valley Native Association, within lots 28, 29, and 30 of U.S. Survey No. 4117 within, sec. 18, T. 8 N., R. 71 W., Seward Meridian, under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601);

4. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V. 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

5. The terms and conditions of the agreement dated August 8, 1978, between the Secretary of the Interior, Calista Corp. and Bethel Native Corp. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Bethel Native Corp., serialized F-14838-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Bethel Native Corp. is entitled to conveyance of 161,280 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date approximately 138,328.70 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 22,951.30 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above will be granted to Calista Corp. at the same time conveyance is granted to Bethel Native Corp. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

The Kuskokwim River and interconnected sloughs and the Gweek (Kweek) River are considered to be subject to tidal influence and navigable throughout the Bethel selection.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks in the "Anchorage Times." Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until October 2, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Bethel Native Corp., Bethel, Alaska 99559.
Calista Corp., 516 Denali Street, Anchorage, Alaska 99501.
State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

GERALD W. ZAMBER,
Acting Chief, Division of ANCSA Operations.

[FR Doc. 78-24686 Filed 8-31-78; 8:45 am]

[1505-01]

[Colorado 22617-A]

ROCKY MOUNTAIN NATURAL GAS CO., INC.

Pipeline Application

Correction

In FR Doc. 78-22327, appearing on page 35555 in the issue for Thursday, August 10, 1978, in the 3d column, in the land description, "Sec. 5, lots 1 and 2, and SW¼NE¼, SE¼NE¼, N½SW¼, and SW¼SW¼; and" should be corrected to read "Sec. 3, lots 1 and 2, and SW¼NE¼, SE¼NW¼, N½SW¼, and SW¼SW¼; and".

[4310-70]

National Park Service

SHENANDOAH NATIONAL PARK, VA.

Designation of Wilderness

Pub. L. 94-567 (90 Stat. 2692) approved on October 20, 1976, designated 79,019 acres of Shenandoah National Park, plus two potential wilderness additions comprising 560 acres, as the Shenandoaah Wilderness. These wilderness designations are depicted on a map entitled "Wilderness Plan, Shenandoah National Park, Va," numbered 134-9001 and dated June 1975. Section 3 of the public law directed the Secretary of the Interior to designate the potential wilderness additions as wilderness, by the publication of a notice in the FEDERAL REGISTER, when all uses thereon that are prohibited by the Wilderness Act had ceased.

The two areas in Shenandoah National Park that were identified for potential wilderness designation consisted of two corridors within Wilderness Unit 10. The northern of these corridors contained the abandoned Trayfoot fire tower, and an unused overhead powerline and a fire road that lead to the tower from opposite directions. The southern corridor contained the Paine Run fire road, upon which special use permits had been issued to stockmen of record at the time of the purchase of the park to permit the continuation of their traditional hauling of cattle from one side of the park to the other.

The fire tower and powerline have now been dismantled and removed; the special use permits have been transferred to a nonwilderness park road for the remaining lifetime of the current permittees; and the roads within the wilderness additions have been permanently closed and blocked in prevent further motorized use.

In that these activities fully comply with the instructions contained in Pub. L. 94-567, this notice hereby designates the 560 acres of potential wilderness additions in Shenandoah National Park as components of the National Wilderness Preservation System, and increases the total of designated Shenandoah Wilderness to 79,579 acres.

Dated: August 25, 1978.

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 78-24667 Filed 8-31-78; 8:45 am]

[4310-70]

VALLEY FORGE NATIONAL HISTORICAL PARK

Intention To Negotiate Concession Contract

Pursuant to section 3, of the act of August 25, 1916, as amended, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with the Ogden Food Service Corp. of Delaware authorizing it to continue to provide concession facilities and services for the public at Valley Forge National Historical Park for a period of three (3) years from January 1, 1979, through December 31, 1981.

An assessment of the environmental impact of this proposed action has been made, and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Mid-Atlantic Regional Office, 143 South Third Street, Philadelphia, Pa. 19106, and the Office of the Superintendent, Valley Forge National Historical Park, Valley Forge, Pa. 19481.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary pursuant to a lease agreement entered into with the Commonwealth of Pennsylvania, acting through the Pennsylvania Historical Commission, covering the period May 1, 1974, through December 31, 1978, which lease agreement was transferred to the United States with the lands comprising the Valley Forge State Park for administration as the Valley Forge National Historical Park. Now, therefore, the Secretary desires the concessioner to continue to provide existing facilities and services under the authorization of a concession contract until such time that a general management plan is completed and future needs assessed.

Anyone interested in further information concerning this action should contact Chief, Concessions Management, National Park Service, Department of Interior, Washington, D.C. 20240.

Dated: August 28, 1978.

DANIEL J. TOBIN, Jr.,
Associate Director,
National Park Service.

[FR Doc. 78-24668 Filed 8-31-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Della Faye Walton, Route 2, Box 232, Tupelo, Miss. 38801.

The applicant wishes to apply for a captive self-sustaining population permit authorizing the purchase and sale for propagation those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No.PRT 2-3133. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 2, 1978. Please refer to the file number when submitting comments.

Dated: August 29, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-24724 Filed 8-31-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Duke University Primate Center, 3705 Erwin Road, Durham, N.C. 27705.

The applicant requests a permit to import one (1) pair of captive-bred white-fronted lemurs (*Lemur macaco albifrons*) from Equipe de Recherche sur les Prosimiens, Brunoy, France for propagation research. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3159. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 2, 1978. Please refer to the file number when submitting comments.

Dated: August 29, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-24728 Filed 8-31-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Duke University Primate Center, 3705 Erwin Road, Durham, N.C. 27705.

The applicant requests a permit to import one (1) pair of captive-born crowned lemurs (*Lemur macaco coronatus*) from the Koln, West Germany Zoo for propagation research. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3158. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 2, 1978. Please refer to the file number when submitting comments.

Dated: August 29, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-24726 Filed 8-31-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: International Crane Foundation, City View Road, Baraboo, Wis. 53913.

The applicant requests a permit to import one male Siberian crane (*Grus leucogeranus*) from the Walsrode, West Germany, Bird Park, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3128. Interested persons may comment on this applica-

tion by submitting written data, views, or arguments to the Director at the above address on or before October 2, 1978. Please refer to the file number when submitting comments.

Dated: August 28, 1978.

LARRY LAROCHELLE,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[F.R. Doc. 78-24730 Filed 8-31-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Los Angeles Zoo, 5333 Zoo Drive, Los Angeles, Calif. 90027.

The applicant wishes to apply for a captive self-sustaining population permit authorizing the purchase and sale for propagation those species of pheasants and mammals listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3118. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 2, 1978. Please refer to the file number when submitting comments.

Dated: August 28, 1978.

LARRY LAROCHELLE,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-24731 Filed 8-31-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Mark Victor Stalmaster, Department of Biology, Utah State University, Logan, Utah 84322.

The applicant requests a permit to take (capture) and mark and radio-tag bald eagles (*Haliaeetus leucocephalus*) in the vicinity of the Nooksack River in Washington. The applicant also desires to take (capture) up to 4 eagles per year for 2 years and hold in captivity up to 6 months for metabolism studies, if insufficient numbers of birds cannot be obtained from authorized rehabilitation programs. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2987. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 27, 1978. Please refer to the file number when submitting comments.

Dated: August 28, 1978.

LARRY LA ROCHELLE,
Chief, Permit Branch, Federal Wildlife Permit Service, U.S. Fish and Wildlife Service.

[FR Doc. 78-24729 Filed 8-31-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minn. 55124.

The applicant requests a permit to purchase from the Rare Feline Breeding Compound, Center Hill, Fla., one (1) female clouded leopard (*Neofelis nebulosa*) for the purpose of propagation. The animal was born in captivity. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3147. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 2, 1978. Please refer to the file number when submitting comments.

Dated: August 29, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-24725 Filed 8-31-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Zoological Society of Cincinnati, 3400 Vine Street, Cincinnati, Ohio 45220.

The applicant requests a permit to import one (1) captive-bred 3-year-old female Asian elephant (*Elephas maximus*) from the Copenhagen Denmark Zoological Gardens, for propagation when it matures.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3145. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 2, 1978. Please refer to the file number when submitting comments.

Dated: August 29, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-24727 Filed 8-31-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. KLIEGMAN BROS., INC., ET AL. AND COMPETITIVE IMPACT STATEMENT THEREON

Proposed Consent Judgment

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the U.S. District Court for the Eastern District of New York, Brooklyn, N.Y., in Civil Action No. 76 C 1885, *United States of America* v. *Kliegman Bros., Inc., et al.* The complaint in this case alleges that 10 defendants conspired to fix the price of perchloroethylene (perc) in Metropolitan New York in violation of section 1 of the Sherman Act. The proposed judgment enjoins nine of the defendants from entering into certain agreements or arrangements and from communicating or exchanging certain information which would violate the antitrust laws or which would facilitate anticompetitive activity. The 10th defendant, Dixo Co., Inc., was adjudged by the court, after a full trial

on the merits, to have violated section 1 of the Sherman Act. The court is expected to enter a litigated judgment against Dixo containing exactly the same injunctive relief as this proposed consent judgment.

Public comment is invited within the statutory 60-day time period. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the court. Comments should be directed to Ralph T. Giordano, Chief, New York Office, Antitrust Division, Room 3630, 26 Federal Plaza, New York, N.Y. 10007.

Dated: August 22, 1978.

RICHARD J. FAVRETTO,
Deputy Director of Operations, Antitrust Division.

U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

United States of America, plaintiff, v. *Kliegman Bros., Inc.; West Side Corp.; Diamond Chemical Company, Inc.; Cleaners Sales & Equipment, Corp.; American Chemical & Supply Company, Inc.; Mindich Enterprises, Inc. d.b.a. L & L Distributors; Perk Chemical Co., Inc.; Poles Supply Company, Inc.; Pride Solvents & Chemical Co., Inc.*, defendants.

Filed: August 22, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the court, upon the motion of any party or upon the court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendents and by filing that notice with the court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered purusant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to the plaintiff and defendents in this or any other proceeding.

For the plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Richard J. Favretto, Charles F. B. McAleer, Ralph T. Giordano, Melvin Lublinski, Jacqueline W. Distelman, *Attorneys, Department of Justice.*

For the defendants: Burns, Van Kirk, Greene & Kafer, by Joseph W. Burns, *Attorneys for Kilegman Bros., Inc.;* Samuel Panzer, Esq., *Attorney for Diamond Chemical, Co., Inc.;* Leonard Lieman, Esq., *Attorney for Cleaners Sales & Equipment Corp.;* Starr, Weinberg & Fradkin, *Attorneys for American Chemical & Supply Co., Inc.;* Julien, Schlesinger & Finz, by Edward J. Sanocki, Jr., *Attorneys for West Side Corp.;* Alan M. Simon, Esq., *Attorney for Mindich Enterprises, Inc.;* Robert Tessler, Esq., *Attorney for Park Chemical, Co., Inc.;* Diamond Grossman, Pitman & Anzaldi, by Bruce M. Pitman, *Attorneys for Poles Supply Co., Inc.;* Martin, Obermaier & Morvillo, by Joe Martin, *Attorneys for Pride Solvents & Chemical Co., Inc.*

U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

United States of America, plaintiff, v. *Kliegman Bros., Inc.; West Side Corp.; Diamond Chemical Company, Inc.; Cleaners Sales & Equipment Corp.; American Chemical & Supply Company, Inc.; Mindich Enterprises, Inc. d.b.a. L & L Distributors; Perk Chemical Co., Inc.; Poles Supply Company, Inc.; Pride Solvents & Chemical Co., Inc.*, defendants.

Filed: August 22, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on October 14, 1976, and the defendants, by their respective attorneys, having appeared and filed their answers to the complaint denying the material allegations thereof, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein and without this final judgment constituting any evidence or admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this final judgment constituting any evidence or admission by any party with respect to any such issue and upon the consent of the parties, it is hereby

Ordered, adjudged and decreed, as follows:

I

This court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under section 1 of the Act of Congress of July 2, 1890, commonly known as the Sherman Act, as amended (15 U.S.C. § 1).

II

As used in this final judgment:

A. "Person" shall mean any individual, corporation, partnership, firm, association, or other business or legal entity.

B. "Perchloroethylene" shall mean a clear, nonflammable liquid composed of ethylene dichloride and chlorine.

III

The provisions of this final judgment shall apply to each defendant, to its subsidiaries, affiliates, successors and assigns, and to each of their respective officers, directors, agents, and employees, and to all other persons in active concert or participation with any of them who receive actual notice of this final judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained directly or indirectly from entering into, adhering to, maintaining or engaging in any agreement, understanding, arrangement, plan or program with any other person to:

A. Fix, raise, maintain, stabilize, or adhere to prices or other terms or conditions for the sale of perchloroethylene to any third person; or

B. Allocate, limit, apportion, or divide territories, markets or customers for the sale of perchloroethylene.

V

Each defendant is enjoined and restrained from:

A. Communicating to or exchanging with any other distributor of perchloroethylene, any information concerning any actual or proposed price, price change, or discount at which perchloroethylene is to be or has been sold by said defendant prior to the communication of such information to the public or to customers generally;

B. Requesting from any other distributor of perchloroethylene any information of a type which said defendant could not communicate to such other distributor of perchloroethylene without violating paragraph (A) of this section V.

VI

Each defendant is ordered and directed to:

A. Serve within sixty (60) days after the date of entry of this final judgment a conformed copy of this final judgment upon each of its officers and directors, and each of its employees who have any responsibility for the sale of perchloroethylene by such defendant;

B. Serve a conformed copy of this final judgment upon each successor officer and director, and each successor employee having any responsibility for the sale of perchloroethylene by such defendant; and

C. Within ninety (90) days after the date of entry of this final judgment, to file with this court and to mail to the plaintiff, an affidavit setting forth the fact and manner of compliance with paragraph (A) of this section VI.

VII

A. For the purpose of determining or securing compliance with this final judgment, any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to each such defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of each defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of each defendant, who may have counsel present, relating to any matters contained in this final judgment; and

(2) Subject to the reasonable convenience of each defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of each defendant any of whom may have counsel present, regarding any such matters.

B. Each defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this final judgment, as may from time to time be requested.

No information obtained by the means provided in this section VII shall be divulged by any representative of the Department of Justice to any person other than a

duly authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this final judgment, or as otherwise required by law. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal rules of civil procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under rule 26(c)(7) of the Federal rules of civil procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VIII

Jurisdiction of this action is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this final judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

IX

This Final Judgment shall remain in effect until November 30, 1984.

X

Entry of this final judgment is in the public interest.

Dated:

United States District Judge.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, PLAINTIFF, V. KLIEGMAN BROS., INC.; WEST SIDE CORP.; DIAMOND SALES & EQUIPMENT CORP.; CLEANERS SALES & SUPPLY CO., INC.; MINDICH ENTERPRISES, INC. D.B.A. L&L DISTRIBUTORS; PERK CHEMICAL CO., INC.; POLES SUPPLY CO., INC.; PRIDE SOLVENTS & CHEMICAL CO., INC., DEFENDANTS.

Civil Action No. 76 C 1885 (JBW).
Filed: August 22, 1978.

PROPOSED CONSENT DECREE COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)-(h)), the United States of America hereby files this competitive impact statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

NATURE AND PURPOSE OF THE ACTION

On October 14, 1976, the Department of Justice filed a civil antitrust action charging that the above-named defendants and a tenth defendant, Dixo Co., Inc. (Dixo), had combined and conspired to fix, raise, maintain and stabilize perchloroethylene (perc) prices in Metropolitan New York in violation of section 1 of the Sherman Act. The complaint alleged that as a result of the conspiracy perc prices were fixed and maintained at artificial and noncompetitive levels depriving customers of free and open competition and restraining competition.

In its prayer for relief, the Department of Justice requested that the court enjoin the defendants from continuing, maintaining or renewing the alleged conspiracy and engaging in any other conspiracy having a similar purpose or effect.

DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATION

The defendants were all perc distributors located in metropolitan New York. Perc is a clear nonflammable liquid sold to dry cleaners, laundries, textile mills and other industrial users. According to the complaint, the defendants' combined perc sales of about $9 million in 1974 constituted over 80 percent of all perc sales in metropolitan New York.

The complaint alleged that from sometime in late 1973 and continuing until November 1974, the defendants engaged in a combination and conspiracy to establish uniform perc prices.

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment provides specific measures to dispel the anticompetitive effects alleged by the complaint. The nine defendants who are parties to this judgment are enjoined and restrained from entering into any agreement or arrangement to fix, raise, maintain, stabilize or adhere to prices or other terms of conditions for the sale of perc to any third person or to allocate, limit, apportion or divide territories, markets or customers for the sale of perc. Each defendant is enjoined and restrained from communicating to or exchanging with any other distributor of perc, any information concerning any actual or proposed price, price change or discount at which perc is to be or has been sold prior to the communication of such information to the public or to customers generally. Furthermore, each defendant is prohibited from requesting from any other distributor of perc, any information of a type which such defendant could not communicate to the other distributor of perc without violating the injunctive provision described in the previous sentence.

The proposed consent judgment will remain in effect until November 30, 1984.

The tenth defendant, Dixo, was adjudged by the United States District Court for the Eastern District of New York, the Honorable Jack B. Weinstein presiding, after a full trial on the merits, to have conspired to raise and fix perc prices in metropolitan New York in violation of section 1 of the Sherman Act. The court is expected to enter a litigated final judgment against Dixo which contains exactly the same injunctive relief as this proposed consent judgment.

COMPETITIVE EFFECTS OF THE PROPOSED CONSENT JUDGMENT

The relief encompassed in the proposed consent judgment is designed to prevent any recurrence of the activities alleged in the complaint. The injunctions contained in the judgment should insure that future pricing actions by the defendants will be independently determined, without the restraining and artificial influences which result from communications and agreements between competitors.

ALTERNATIVE REMEDIES CONSIDERED BY THE DEPARTMENT OF JUSTICE

The proposed consent judgment provides substantially all of the relief which might reasonably be expected following a trial on the merits and a decision favorable to the Government.

As noted above, the litigated final judgment to be entered against Dixo, which follows a trial on the merits and a decision for the Government, is expected to contain exactly the same injunctive relief as this proposed consent judgment.

The Antitrust Division considered a consent judgment with a somewhat broader injunction respecting communications and exchanges of information between a defendant and any other distributor of perc. It also agreed to the November 30, 1984 termination date for the consent judgment which it initially opposed. The Antitrust Division did not insist upon the broader injunction or a consent judgment running in perpetuity because the court had previously indicated there was little likelihood of his giving us such relief after trial.

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed consent judgment not entered. This judgment may not be used as *prima facie* evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a). However, any litigated judgment entered against Dixo may be used as *prima facie* evidence in private litigation.

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the Defendants, which provides that the United States may withdraw its consent to the proposed judgment until the court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed judgment provides for retention of jurisdiction of this action in order, among other things, to permit any of the parties thereto to apply to the court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any persons believing that the proposed judgment should be modified may, within a 60 day period, submit written comments to the United States Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, N.Y. 10007, which will file with the court and publish in the FEDERAL REGISTER such comments and its response to such comments. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

DETERMINATIVE DOCUMENTS

There are no materials or documents which the Government considered determinative in formulating this proposed consent

judgment. Therefore, none are being filed with this competitive impact statement.

MELVIN LUBLINSKI,
JACQUELINE W. DISTELMAN,
Attorneys, Department of Justice.

[FR Doc. 78-24711 Filed 8-31-78; 8:45 am]

[4410-01]

Attorney General

PICKENS COUNTY, ALA.

Voting Rights Act of 1965; Certification of the Attorney General

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the 15th amendment to the Constitution of the United States in Pickens County, Ala. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on August 7, 1965 (30 FR 9897).

GRIFFIN B. BELL,
Attorney General of the United States.

AUGUST 29, 1978.

[FR Doc. 78-24773 Filed 8-31-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 11, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 11, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 3d day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aluminum Co of America (Alcoa), Point Comfort, Tex. operations (USWA).	Point Comfort, Tex	July 28, 1978	July 25, 1978	TA-W-4,032	Alumina and chlorine.
Central Slipper (workers)	New York, N.Y	July 31, 1978	July 24, 1978	TA-W-4,033	Slippers and sneakers.
F. V. Mary Ann, Inc. (company)	Gloucester, Mass	July 27, 1978	July 25, 1978	TA-W-4,034	Catching and selling fish.
Pyr-A-Larm, Inc. (IUE)	Dublin, Ga	Aug. 2, 1978	July 26, 1978	TA-W-4,035	Residential smoke detectors.
U.S. Steel Corp., American Bridge Division (USWA).	Commerce, Calif	July 31, 1978	July 28, 1978	TA-W-4,036	Fabricated steel products: Buildings, bridges, and plate, tanks, and other structural steel.

[FR Doc. 78-24361 Filed 8-31-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the act in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 11, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 11, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 18th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Arrow Co., a division of Cluett Peabody (ACTWU).	Eveleth, Minn	Aug. 18, 1978	Aug. 14, 1978	TA-W-4,079	Cutting, stitching, and packaging of men's dress shirts.
Do	Virginia, Minn	do	do	TA-W-4,080	Cutting, stitching, and packaging of men's dress shirts.
Merit Enterprises, Inc. (United Industrial Workers of America).	Newark, N.J	do	Aug. 15, 1978	TA-W-4,081	Fans, hair dryers, lighted mirrors, crock pots, deep fryers, etc.
Reid-Meredith, Inc. (company)	Lawrence, Mass	do	do	TA-W-4,082	Men's and womens' hair pieces.
Reidbord Bros. Co. (workers)	Philippi, W. Va	do	Aug. 14, 1978	TA-W-4,083	Men's work trousers.

[FR Doc. 78-24362 Filed 8-31-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 11, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 11, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 17th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers or former workers of)	Location	Date received	Date of petition	Petition number	Articles produced
Angle Iron & Steel Corp. (company)	North Quincy, Mass	Aug. 15, 1978	Aug. 8, 1978	TA-W-4,067	Work related and erection of structural steel buildings.
Cavert Wire Co., Inc. (USWA)	Pittsburgh, Pa	do	Aug. 14, 1978	TA-W-4,068	Carbon wire products, including steel paper clips.
Dorel Crane & Equipment Rental Co., Inc. (company).	North Quincy, Mass	do	Aug. 8, 1978	TA-W-4,069	Work related and erection of structural steel buildings.
W. P. Griffin Co. (company)	do	do	do	TA-W-4,070	Do.
International Silver Co., Factory C (USWA).	Meriden, Conn	Aug. 16, 1978	July 20, 1978	TA-W-4,071	Stainless steel flatware, silver plated flatware, and silver planted holloware.
Masland Dura-Leather Manufacturing Co. (United Rubber, Cork, Linoleum Plastic Workers of America).	Philadelphia, Pa	Aug. 15, 1978	Aug. 1, 1978	TA-W-4,072	Vinyl coated fabrics and film (wallcoverings).
Metro Steel Co. (company)	North Quincy, Mass	do	Aug. 8, 1978	TA-W-4,073	Work related and erection of structural steel buildings.
Modulus Corp. (USWA)	Mount Pleasant, Pa	Aug. 16, 1978	Aug. 14, 1978	TA-W-4,074	Industrial steel fastners.
Morrison Steel Co. (workers)	New Brunswick, N.J	Aug. 15, 1978	Aug. 7, 1978	TA-W-4,075	Cut all types of steel to order from stock and ship to customers.
The Quinfield Steel (company)	North Quincy, Mass	do	Aug. 8, 1978	TA-W-4,076	Work related and erection of structural steel buildings.
Sea-Land Service, Inc. (workers)	Brooklyn, N.Y	Aug. 14, 1978	Aug. 11, 1978	TA-W-4,077	Truck operation delivery service.
The Quincy Corp. (company)	North Quincy, Mass	Aug. 15, 1978	Aug. 8, 1978	TA-W-4,078	Work related and erection of structural steel buildings.

[FR Doc. 78-24363 Filed 8-31-78; 8:45 am]

[4510-28]

[TA-W-3534]

CANTON TEXTILE MILLS, INC., CANTON, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3534: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 13, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing cotton denim fabric at Canton Textile Mills, Inc., Canton, Ga.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Canton Textile Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of bleached and dyed cotton broadwoven fabric, a category which includes the cotton denim fabric produced at Canton Textile, increased from 100.5 million square yards in 1975 to 142.0 million square yards in 1976. The ratio of imports to domestic production increased from 3.1 percent in 1975 to 4.1 percent in 1976. Imports decreased slightly to 134.7 million square yards in 1977. Imports then increased 38.7 percent from 24.8 million square yards in the first quarter of 1977 to 34.4 million square yards in the first quarter of 1978.

A departmental survey of a number of Canton Textile's customers revealed that in the first quarter of 1978 compared to the first quarter of 1977, some of the subject firm's major customers increased their purchases of denim fabric from foreign sources while decreasing their purchases from Canton Textile Mills, Inc.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cotton denim fabric produced at Canton Textile Mills, Inc., Canton, Ga., contributed importantly to the decline in sales or production and to the total or partial separations of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Canton Textile Mills, Inc., Canton, Ga., who became totally or partially separated from employment on or after November 26, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24719 Filed 8-31-78; 8:45 am]

[4510-28]

[TA-W-3125]

THE GOODYEAR TIRE & RUBBER CO., LOS ANGELES PLANT, LOS ANGELES, CALIF.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3125: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 26, 1978, in response to a worker petition received on December 27, 1977, which was filed by the United Rubber, Cork, Linoleum, and Plastic Workers of America on behalf of workers and former workers producing passenger tires and truck tires at the Los Angeles, Calif., plant of the Goodyear Tire & Rubber Co.

The notice of investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8208). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Good-

year Tire & Rubber Co., its customers, the United Rubber, Cork, Linoleum, and Plastic Workers of America, the Rubber Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing truck tires and without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Evidence developed during the course of the investigation revealed that production of truck tires at the Los Angeles plant increased 72.4 percent in 1977 compared to 1976 and increased 20.1 percent during the January–February period of 1978 compared to the same period of 1977. Truck tire production continues at the Los Angeles plant with no shutdown anticipated.

Sales of truck tires in the western sales region, of which the Los Angeles plant constituted a major proportion, increased 32.5 percent in 1977 compared to 1976 and increased 26.2 percent in the first quarter of 1978 compared to the first quarter of 1977.

With respect to workers producing passenger tires, all of the group eligibility requirements of section 222 of the act have been met.

The Department's investigation revealed that U.S. imports of passenger car tires increased to 12,643 thousand units in 1976 compared to 9,940 thousand units in 1975 and increased to 13,077 thousand units in 1977. The ratio of imports to domestic production increased from 6.3 percent in 1975 to 8.0 percent in 1976 and then decreased to 6.7 percent in 1977.

Imports of passenger car tires through Western ports of entry increased absolutely in 1977 and in that year represented 25 percent of total U.S. imports of such tires. Goodyear's imports of bias passenger tires increased 2913.3 percent in 1976 compared to 1975 and decreased 88.1 percent in 1977 compared to 1976, but the 1977 figure was 260.0 percent higher than the 1975 level of company imports. Goodyear's imports of radial passenger tires increased 374.6 percent in 1976 compared to 1975 and increased 12.7 percent in 1977 compared to 1976.

The Los Angeles plant has been primarily a bias-ply production facility with 50 percent of the plant's output being bias-ply and bias-belted passenger tires, 19 percent being radial passenger tires, and 31 percent being bias truck tires in 1976. These tires are sold in the replacement market. Over 75 percent of the plant's passenger tire output was sold in the Western sales region of the company.

In the national tire market, especially the original equipment market, radials are rapidly replacing traditional bias-ply tires. This is reflected both in increased production of radials and increased imports which are believed to be predominantly (over 90 percent) radials. Radial tires are directly competitive with bias-ply tires.

The Los Angeles plant is used to supply the western region market of Goodyear. With regard to import competition, the Western market differs significantly as compared with other markets. With respect to both automobile imports and passenger tire imports, there appears to be a significantly higher proportion (compared to the national average) of these articles on the west coast that are supplied from foreign sources. Not only are these imported passenger car tires predominantly of radial construction, they are primarily targeted for the replacement market. This impacts on the Los Angeles plant in two ways: The longer life of radials and the preference by consumers for imported radials which replace both domestically produced bias and radial passenger car tires.

The Department conducted a survey of the major customers of the Goodyear Tire & Rubber Co. who purchased tires in the western region. Some of these customers increased import purchases while decreasing tire purchases from domestic sources, including Goodyear, in 1977 and 1978. Several customers claimed that tire imports were capturing an increasing share of the growth in tire demand.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger tires produced at the Los Angeles, Calif., plant of the Goodyear Tire & Rubber Co. contributed importantly to the decline in production and to the total or partial separation of workers engaged in passenger car tire production at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Los Angeles, Calif., plant of the Goodyear Tire & Rubber Co. engaged in employment related to the production of passenger car tires and who became totally or partially separated from employment on or after May 27, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I further determine that workers engaged in employment related to the production of truck tires at the Los Angeles, Calif., plant of the Goodyear Tire & Rubber Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-24720 Filed 8-31-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-2623]

DUKE POWER CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.741a, 2.717, and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

DUKE POWER CO.

(Oconee Nuclear Station—McGuire Nuclear Station.)

Application for amendment to special nuclear material license No. SNM-1773.

This action is in reference to a notice published by the Commission on July 28, 1978, in the FEDERAL REGISTER (43 FR 32905) entitled "Opportunity for Public Participation in Proposed NRC Licensing Action for Amendment to Materials License SNM-1773 for Oconee Nuclear Station Spent Fuel Transportation and Storage at McGuire Nuclear Station".

The Chairman of this Board and his address is as follows:

Robert M. Lazo, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. Cadet H. Hand, Jr., Director, Bodega Marine Laboratory, University of California, P.O. Box 247, Bodega Bay, Calif. 94923.

Dr. Emmeth A. Luebke, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md., this 28th day of August 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-24638 Filed 8-31-78; 8:45 am]

[7590-01]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 51 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District, which revised the technical specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebr. The amendment is effective as of the date of its issuance.

The amendment revised the technical specifications to incorporate revised minimum critical power ratios for 7x7 and 8x8 fuel based on revised analyses.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 7, 1978, and supplemented August 16, 1978, (2) amendment No. 51 to License No. DPR-46, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Auburn Public Library, 118 15th Street, Auburn, Nebr. 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of August 1978.

For the Nuclear Regulatory Commission.

RICHARD J. CLARK,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-24639 Filed 8-31-78; 8:45 am]

[7590-01]

[Docket No. P-564A]

PACIFIC GAS & ELECTRIC CO. (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Prehearing Conference

AUGUST 25, 1978.

a prehearing conference will be held in this proceeding to consider all pertinent matters pursuant to the provisions of 10 CFR 2.752. Any pending motions will also be considered and ruled upon at that time. The parties are requested to have all motions, briefs, points of authority and all other moving papers in the hands of the Board at least 7 days (September 20, 1978) prior to the prehearing conference.

This prehearing conference will be held September 27-29, 1978, commencing at 9:30 a.m., local time, in the State Building, Room 1202 (first floor), 310 McAllister Street, San Francisco, Calif. 94102.

It is so ordered.

Dated at Bethesda, Md., this 25th day of August 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-24640 Filed 8-31-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICES CO. OF OKLAHOMA, ET AL. (BLACK FOX STATION, UNITS 1 AND 2)

Amended Order Setting Evidentiary Hearing on Health and Safety Issues

In the matter of Public Services Co. of Oklahoma, Associated Electric Cooperative, Inc. and Western Farmers Electric Cooperative, Inc. (Black Fox Station, Units 1 and 2).

Our initial Order dated August 17, 1978, and published in the FEDERAL REGISTER on August 23, 1978 (43 FR 37502), directed that the evidentiary hearing on health and safety issues would begin in Tulsa, Okla., on September 18, 1978, and would proceed through September 29, 1978, and that limited appearance statements would be received at certain times.

However, on August 15, 1978, the then counsel for the Intervenors withdrew and on August 17, 1978, new counsel for the Intervenors noticed their appearance. Thereafter, in conference calls on August 21 and 22, 1978, in light of the recent substitution of the Intervenors' counsel, counsel for Applicants, the NRC staff and the Intervenors advised the Board that they had agreed to request that the evidentiary hearing be set over to begin in early October.[1] The Board granted the request and, pursuant to an agreement between counsel for the parties, prescribed the hearing dates as hereinafter set forth.

Accordingly, please take notice and it is hereby ordered that the evidentiary hearing on health and safety issues specified in our initial order dated August 17, 1978, is scheduled to begin at 9:30 a.m. on October 10, 1978, in Courtroom No. 3, U.S. Courthouse, 333 West Fourth Street, Tulsa, Okla. The hearing will continue on weekdays through October 20, 1978.

Members of the public are invited to attent this evidentiary public hearing. Pursuant to 10 CFR 2.715(a), individuals or organizations wishing to make limited appearances in order to state their positions on the issues will be permitted to do so on October 10, 1978. In order to accommodate those who desire to make limited appearance statements, evening sessions between 7 p.m. and 10 p.m. will be held also on October 10 and 11, 1978. Oral statements will be limited to five (5) minutes each but written statements may be submitted without limitation on length. Those individuals and organizations making limited appearance statements are reminded that they are not parties in this proceeding and do not have a right to participate therein other than to present their statements.

It is so ordered.

Dated at Bethesda, Md., this 28th day of August 1978.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE, ESQ.,
Chairman.

[FR Doc. 78-24641 Filed 8-31-78; 8:45 am]

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[1] During the conference calls, counsel for the Intervenors acknowledged that the motion and application for continuance (undated, but apparently filed on August 17, 1978) was mooted in light of the parties' agreement. Accordingly, said submission is denied.

[7590-01]

[Docket No. 50-414A]

DUKE POWER CO. NORTH CAROLINA POWER AGENCY NO. 1

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated August 25, 1978, with respect to a construction permit application for Catawba Nuclear Station, Unit 2:

You have requested our advice pursuant to the provisions of section 105c of the Atomic Energy Act, as amended, in regard to the above-cited application amendment. Our advice concerns the participation of North Carolina Municipal Power Agency No. 1 (Power Agency) in Duke Power Co.'s (Duke) Catawba Unit 2.

Duke's participation in this unit was the subject of an earlier antitrust review by the Department. On April 26, 1974, we advised the former Atomic Energy Commission that based upon Duke's willingness to accept a statement of commitments as conditions to its Oconee, McGuire, and Catawba nuclear plant licenses, we recommended that the antitrust proceedings which we had previously initiated be terminated. After the cessation of those proceedings, Duke engaged in discussions with small municipal and cooperative systems in its area, and offered to sell them its Catawba Nuclear Station. This amendment to the Catawba application permitting Power Agency's participation in Catawba Unit 2 arose out of those discussions. Under its agreement with Duke, Power Agency will own 75 percent of unit 2; the remaining 25 percent will likely be sold to the municipal utilities operating in Duke's general service area in South Carolina. Duke is also engaged in continuing discussions with the cooperative systems in its area, aimed at selling them 75 percent ownership in unit 1.

A complex interconnection agreement integrates the Catawba Nuclear Station into the systems of Duke and Power Agency. The interconnection agreement also provides arrangements for exchange of power between the various Catawba and McGuire units, reserve capacity, deficiency energy, retained capacity from Catawba, purchased capacity and energy, surplus energy sales from Catawba, purchase of supplemental capacity and energy, and transmission service. In our view, the interconnection agreement should afford Power Agency access to significant forms of coordinated operation and development, and thereby, enhance its ability to compete effectively in electric power markets. After that agreement goes into operation, should any of its provisions actually prove to limit or otherwise hinder competition, we will when appropriate, so advise the Commission.

Our review has not disclosed antitrust problems attending Power Agency's participation in the plant, and it is our opinion that their participation in Catawba Unit 2 will not create or maintain a situation inconsistent with the antitrust laws. We do not, therefore, believe it necessary for the Commission to hold an antitrust hearing.

Any person whose interest may be affected by this proceeding may, pursuant to 2.714 of the Commission's rules of practice, 10 CFR part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by October 2, 1978, either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and indemnity Group, Office of Nuclear Reactor Regulation.

[FR Doc. 78-24768 Filed 8-31-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AMERICAN LAND CO.

Suspension of Trading

AUGUST 25, 1978.

It appearing to the Securites and Exchange Commission that the summary suspension of trading in the securities of American Land Co. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. on August 25, 1978 through September 3, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-24654 Filed 8-31-78; 8:45 am]

[8010-01]

[Release No. 15095; SR-BSE-78-6]

BOSTON STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

AUGUST 28, 1978.

On June 19, 1978, the Boston Stock Exchange, Inc. ("BSE"), 53 State Street, Boston, Mass. 02109, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which would amend chapter II, section 23(c) of the BSE rules to add exemptions to its off-board trading restrictions for transactions in securities (1) not listed and registered on any national securities exchange but which are traded on the BSE pursuant to a grant of unlisted trading privileges and (2) listed solely on the BSE, if the issuer of such securities has applied for delisting and the BSE has applied for unlisted trading privileges with respect to such securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14957, July 13, 1978) and by publication in the FEDERAL REGISTER (43 FR 31485, July 21, 1978). All written statements with respect to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-24655 Filed 8-31-78; 8:45 am]

[8010-01]

[File No. 500-1]

HOUSTON COMPLEX, INC. AND NETWORK ONE, INC.

Suspension of Trading

AUGUST 25, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Houston Complex, Inc. and Network One, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. on August 25, 1978 through September 3, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-24656 Filed 8-31-78; 8:45 am]

[8010-01]

[Release No. 15090; SR-MSRB-77-9]

MUNCIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

AUGUST 25, 1978.

On August 17, 1977, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), and rule 19b-4 thereunder, copies of a proposed rule change which would establish terms and conditions under which municipal securites dealers may sell new issue municipal securities during the underwriting period. Specifically, the proposed rule change, proposed MSRB rule G-11, would require municipal securities syndicates to establish the priority to be accorded to different types of orders and, if such priority may be changed, the procedure for making changes. Nevertheless, syndicates would be permitted to have a provision allowing the manager to vary such procedures in the best interests of the syndicate. The proposed rule change would require the syndicate manager to furnish to syndicate members written information concerning allocation procedures and any changes in them. It also would require the disclosure, on request, to the public [1] of syndicate allocation procedures and any changes in them and the disclosure to syndicate members of certain information, including, in the case of any order entered by a municipal securities dealer for its related portfolio, the identity of that related portfolio and, in the case of any group order, the name of the customer.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of Commission releases and by publication in the FEDERAL REGISTER. The proposed rule change was filed on August 17, 1977 and notice was published in Securities Exchange Act release No. 13871 (Aug. 18, 1977) (42 FR 43166 (1977)). On January 17, 1978, the proposed rule change was amended for the first time. Notice of that amendment was published in Securities Exchange Act release No. 14397 (Jan. 20, 1978) (43 FR 3958 (1978)). A second amendment to the proposed rule was filed on June 30, 1978, and published in Securities Exchange Act release No. 14944 (July 7, 1978) (43 FR 30946 (1978)). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person have been carefully considered, and were made available to the public at the Commission's public reference room.

The comments received on the proposed rule change identify a number of issues raised by this filing.[2] An important concern raised in the comments is whether the disclosure approach adopted by the MSRB for this proposed rule change is responsive to the statutory mandate in section 15B(b)(2)(K) of the Act.[3] Some persons commenting on the proposed rule have charged that it would require disclosures which may be of benefit only to syndicate members or entities related to them and would not affirmatively regulate the underwriting process to insure that public customers have an opportunity to purchase municipal securities during the underwriting period. Accordingly, such persons have argued that this proposed rule is not responsive to the mandate in section 15B(b)(2)(K).

The Commission notes that the legislative history of section 15B(b)(2)(K) indicates that the Congress intended that the MSRB use its rulemaking power to "assure that municipal investment portfolios, in their purchase of new issues of municipal securities during the underwriting period, do not have an advantage in comparison with other public investors solely by reason of their affiliation with municipal securities dealers." [4] The MSRB has stated, however, that "it has not been demonstrated that related portfolios obtain advantages in acquiring new issue municipal securities solely by reason of their affiliation with municipal securities dealers." While, as indicated above, two persons commenting on the proposed rule did not believe that the disclosure approach is responsive to the Act's mandate, those persons did not provide information that counters the MSRB's statement (and the Commission is not aware of any such information). As a result of its analysis, the MSRB has determined to propose a rule which, among other things, is designed to increase publicly available knowledge about the operation of syndicates and to lessen the disparity in information between the syndicate manager and other syndicate members.

The disclosure approach adopted in proposed MSRB rule G-11 appears to be an appropriate initial response to the mandate in section 15B(b)(2)(K). The proposed rule's requirements should increase the knowledge relating to allocation procedures of those customers who request infomation concerning them, thus enabling them better to frame their orders, and should increase the knowledge of syndicate members with respect to the operation of the syndicate, thus increasing the pressures to treat equally all persons similarly situated. The increased information regarding syndicate practices which the rule will provide will be particularly valuable because of the past lack of standardized practices and of disclosures in this industry, and appears to be the best initial means of furthering the public interest in this area.

In addition to the information which the proposed rule would produce for syndicate members and for customers, the proposed rule's requirements, in conjunction with existing recordkeeping rules, will provide information which can be used to determine whether further rules in this area would be necessary or advisable.[5] The

[1] We understand that the proposed rule's indication of the availability of certain information "to others, upon request" is intended by the MSRB to encompass members of "the investing public."

[2] Proposed rule G-11 is the last of a series of proposals in this area by the MSRB. Before filing the proposed rule with the Commission, the MSRB circulated three exposure drafts of proposed MSRB rule G-11 and received 99 letters of comment on those three drafts. After filing the proposed rule change on Aug. 17, 1977, the MSRB reviewed the 10 comments received by the Commission and, in response to those comments and questions raised by the Commission staff, amended the filing. The Commission received 4 more comment letters as a result of the Jan. 17, 1978, amendment and the MSRB, after circulating an exposure draft of its draft changes and receiving 4 comment letters on those changes, filed another amendment on June 30, 1978. No comment letters with respect to that amendment were received by the Commission.

[3] Section 15B(b)(2)(K) of the Act provides that MSRB rules shall: "Establish the terms and conditions under which any municipal securities dealer may sell, or prohibit any municipal securities dealer from selling, any part of a new issue of municipal securities to a municipal securities investment portfolio during the underwriting period."

[4] Securities Acts Amendments of 1975, Report of the Committee on Banking, Housing, and Urban Affairs, U.S. Senate, S. Rept. No. 75, 94th Cong. 1st Sess. at 49 (1975).

[5] The MSRB has indicated its intention to explore "methods of monitoring the implemention of Board rules." The Commission understands that such efforts are designed to "focus on industry experience under the new system of regulation." It may be especially appropriate for the MSRB to assess the effect of MSRB rule G-11 on municipal

Footnotes continued on next page

available data also can be used, if necessary, to draft a rule which would be both workable and directed toward any particular problems which may be identified in the future.

Other comments with respect to the proposed rule change have concerned its requirements for the establishment and disclosure of allocation procedures and for the disclosure of the identity of persons for whom orders are placed. Persons commenting on the proposed rule's requirements with respect to allocation procedures have argued that a requirement to establish and follow allocation procedures would unnecessarily restrict the operation of syndicates. Nevertheless, because a syndicate is permitted to provide for a means of changing its allocation procedures, such a requirement would not appear to impose an unreasonable restriction. The requirement would make knowledge about syndicate operations available to both syndicate members and the public, and will assist syndicates in determining the priority to be accorded to related portfolios.

A number of comments were received concerning the requirements to disclose the identity of related portfolios and to disclose the identity of customers entering orders on a group order basis. Disclosure with respect to related portfolios is an essential part of the proposed rule. Persons commenting on the proposal, however, raised questions as to whether disclosure of the specific identities of those portfolios is necessary. The MSRB's initial filing of the proposed rule contained a requirement to disclose the identity of the related portfolio for which orders are entered. In discussing this requirement, the MSRB indicated that it was of the view that buying interest on the part of related portfolios and affiliated investment trusts should be accurately identified to the syndicate, rather than being represented as dealer interest. The identity of the particular related portfolio appears to provide the most accurate identification to the syndicate. In discussing related portfolio disclosure in its exposure draft of rule G-11 dated May 18, 1978, the MSRB also noted that, if disclosure of portfolio identity were not required, the rule's provisions concerning group orders would vary depending upon whether a customer was affiliated with a municipal securities dealer.

The disclosure with respect to orders for related portfolios currently corresponds to the disclosure of customer identity required for group orders. The MSRB stated in its filing that the reason for the group order requirement is its view that group orders belong to all members of the syndicate on a pro rata basis in proportion to their respective participations in the syndicate, and that, accordingly, information with respect to them should be available to all persons in the syndicate. Some persons commenting on this proposed requirement have argued that information with respect to individual customer orders is not of value to syndicate members. Other persons conceded the value of the information, but argued that a requirement to provide the information would remove the ability of a syndicate manager to compete with other managers for members to join its syndicates on the basis of furnishing such information. Nevertheless, certain persons have indicated that such information would be useful and that it should be available to syndicate members. The MSRB has stated that the disclosures in proposed rule G-11 are necessary in order to make information available to all those entitled to it, [6] and the Commission agrees that regulation for that purpose is appropriate. [7]

The text of the proposed rule change is as follows:

Rule G-11. *Sales of new issue municipal securities during the underwriting period.*

(a) Definitions. For purposes of this rule, the following terms have the following meanings:

(i) The term "accumulation account" means an account established in connection with a municipal securities investment trust to hold securities pending their deposit in such trust.

(ii) The term "group order" means an order for securities held in syndicate, which order is for the account of all members of the syndicate on a pro rata basis in proportion to their respective participations in the syndicate. Any such order submitted directly to the senior syndicate manager will, for purposes of this rule, be deemed to be the submission of such order by such manager to the syndicate.

(iii) The term "municipal securities investment trust" means a unit investment trust, as defined in the Investment Company Act of 1940, the portfolio of which consists in whole or in part of municipal securities.

(iv) The term "order period" means the period of time, if any, announced by a syndicate during which orders will be solicited for the purchase of securities held in syndicate.

(v) The term "related portfolio," when used with respect to a municipal securities dealer, means a municipal securities investment portfolio of such municipal securities dealer or of any person directly or indirectly controlling, controlled by or under common control with such municipal securities dealer.

(vi) The term "syndicate" means an account formed by two or more persons for the purpose of purchasing, directly or indirectly, all or any part of a new issue of municipal securities from the issuer, and making a distribution thereof.

(vii) The term "underwriting period" means the period commencing with the first submission to a syndicate of an order for the purchase of new issue municipal securities or the purchase of such securities from the issuer, whichever first occurs, and ending at such time as the issuer delivers the securities to the syndicate or the syndicate no longer retains an unsold balance of securities, whichever last occurs.

(b) Disclosure of capacity. Every municipal securities dealer that submits an order to a syndicate or to a member of a syndicate for the purchase of municipal securities held by the syndicate shall disclose at the time of submission of such order if the securities are being purchases for its dealer account, for the account of a related portfolio of such municipal securities dealer, for a municipal securities investment trust sponsored by such municipal securities dealer, or for an accumulation account established in connection with such a municipal securities investment trust. The senior syndicate manager shall promptly disclose to the other members of the syndicate, upon request made prior to final settlement of the syndicate account, each order submitted for such a related portfolio, municipal securities investment trust, or accumulation account, indicating the identity of the related portfolio, municipal securities investment trust, or accumulation account, the aggregate face amount of each maturity and the maturity dates of the securities which are the subject of the order.

(c) Confirmations of sale. Sales of securities held by a syndicate to a related portfolio, municipal securities investment trust or accumulation account referred to in section (b) above shall be confirmed by the syndicate manager directly to such related portfolio, municipal securities investment trust or accumulation account or for the account of such related portfolio, municipal securities investment trust or accumulation account to the municipal securities dealer submitting the order. Nothing herein contained shall be construed to require that sales of municipal securities to a related portfolio, municipal securities investment trust or accumulation account be made for the benefit of the syndicate.

(d) Disclosure of group orders. Every municipal securities dealer that submits a group order to a syndicate or to a member of a syndicate, shall disclose at the time of submission of such order the identity of the person for whom the order is submitted.

Footnotes continued from last page
securities underwriting practices, in view of the current lack of information concerning such practices and the increased data which the proposed rule would produce.

[6] Section 15B(b)(2)(C) provides, among other things, that MSRB rules must be designed "to promote just and equitable principles of trade * * * to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and [must] not be designed to permit unfair discrimination between customers * * *."

[7] The MSRB has requested that the proposed rule be made effective with respect to sales of new issue municipal securities in which the purchase of such securities from the issuer occurs on or after 30 calendar days following the date the proposed rule is approved by the Commission. The MSRB indicated that delayed effectiveness was requested in order to "provide members of the industry an opportunity to implement the procedures contemplated by the proposed rule and to avoid possible disruption of the new issue market for municipal securities."

The senior syndicate manager shall promptly disclose to the other members of the syndicate, upon request made prior to final settlement of the syndicate account, each group order, indicating the identity of the person for whom the order is submitted, the aggregate face amount of each maturity and the maturity dates of the securities which are the subject of the order.

(e) Priority of orders. Every syndicate shall establish the priority to be accorded to different types of orders for the purchase of securities from the syndicate during the underwriting period and, if such priority may be changed, the procedure for making changes. For purposes of this rule, the requirement to establish priority shall not be satisfied if a syndicate provides only that the syndicate manager or managers may determine in the manager's or managers' discretion the priority to be accorded different types of orders. Notwithstanding the preceding sentence, a syndicate may include a provision permitting the syndicate manager or managers on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, if the syndicate manager or managers determine in its or their discretion that it is in the best interests of the syndicate. In the event any such allocation is made, the syndicate manager or managers shall have the burden of justifying that such allocation was in the best interests of the syndicate.

(f) Communications relating to priority of orders and order period. Prior to the first offer of any securities by a syndicate, the senior syndicate manager shall furnish in writing to the other members of the syndicate (i) the priority to be accorded to different types of orders for securities to be distributed by the syndicate, (ii) the procedure, if any, by which such priority may be changed, (iii) if the senior syndicate manager or managers are to be permitted on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, the fact that they are to be permitted to do so, and (iv) if there is to be an order period, whether orders may be confirmed prior to the end of the order period. Any change in the provisions governing the priority of orders shall be promptly furnished in writing by the senior syndicate manager to the other members of the syndicate. Syndicate members shall promptly furnish in writing the information described in this section to others, upon request.

(g) Disclosure of syndicate expenses. At or before the final settlement of a syndicate account, the senior syndicate manager shall furnish to the other members of the syndicate an itemized statement setting forth the nature and amounts of all actual expenses incurred on behalf of the syndicate. Notwithstanding the foregoing, any such statement may include an item for miscellaneous expenses, provided that the amount shown under such item is not disproportionately large in relation to other items of expense shown on the statement and includes only minor items of expense which cannot be easily categorized elsewhere in the statement. Discretionary fees for clearance costs to be imposed by a syndicate manager and management fees shall be disclosed to syndicate members prior to the submission of a bid, in the case of a competitive sale, or prior to the execution of a purchase contract with the issuer, in the case of a negotiated sale. For purposes of this section, the term "management fees" shall include, in addition to amounts categorized as management fees by the syndicate manager, any amount to be realized by a syndicate manager and not shared with the other members of the syndicate, which is attributable to the difference in price to be paid to an issuer for the purchase of a new issue of municipal securities and the price at which such securities are to be delivered by the syndicate manager to the members of the syndicate.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to MSRB, and in particular, the requirements of section 15B and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved, effective September 24, 1978. The rule, however, would apply only with respect to the offer or sale of new issue municipal securities in which the purchase of such securities from the issuer occurs on or after September 24, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-24657 Filed 8-31-78; 8:45 am]

[8010-01]

[Release No. 15093; SR-PSE-78-2]

Pacific Stock Exchange Inc.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

AUGUST 25, 1978.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on February 24, 1978, the Pacific Stock Exchange Inc. ("PSE"), 618 South Spring Street, Los Angeles, Calif. 90014, filed with the Commission copies of a proposed rule change and on August 14, 1978, submitted copies of an amendment to the proposed rule change,[1] which permits PSE members to accept orders for the sale (writing) of call options from an affiliate of the issuer of the underlying stock and to accept "restricted stock," or stock held by or for the account of an affiliate, or stock subject to the terms of rule 145 for the purpose of covering a short position in call option contracts and for the purpose of satisfying exercise notices of options positions.[2]

[1] Publication of the proposed rule change was delayed pending the submission of the PSE's amendment.

[2] The proposed rule change provides (italic indicates additions, brackets indicate deletions):

Sec. 18.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file No. SR-PSE-78-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges and, in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof, in that the Commission requested public comment on an identical proposed rule change submitted by the American Stock Exchange, Inc. ("Amex") and no comments were received.[3] Further, the purpose of the PSE proposal is to reflect in its rules a recent change in policy by the Division of Corporation Finance by which the writing of standardized call options will no longer be deemed a solicitation for the purchase of the underlying securities, as defined in Securities Act rule 144(f).[4]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-24658 Filed 8-31-78; 8:45 am]

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[3] See Securities Exchange Act ("SEA") Rel. No. 14435 (February 2, 1978); 43 FR 6181 (February 13, 1978). The Amex proposal was approved by the Commission on March 30, 1978 (SEA Rel. No. 14621 (March 30, 1978); 43 FR 14559 (April 6, 1978)).

[4] See SEC Rel. No. 33-5890 (December 20, 1977).

[8010-01]

[Release No. 15096; SR-PSE-78-13]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

AUGUST 28, 1978.

On July 3, 1978, the Pacific Stock Exchange Inc. ("PSE"), 618 South Spring Street, Los Angles, Calif. 90014, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which amends PSE Rule IV, section 49 and deletes commentary .02 to provide an exception to its priority rules for spread and straddle orders. The exception provides that when a spread or straddle order cannot be executed by accepting the bid and/or offer displayed by the order book official, one "leg" of such spread or straddle order may be executed with one other PSE member at a price which is the same as that derived from the book quote.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 14946, July 7, 1978) and by publication in the FEDERAL REGISTER (43 FR 30952, July 18, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-24659 Filed 8-31-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

CASCADE CAPITAL CORP. AND CENTRAL INVESTMENT CORP. OF DENVER

License Surrender

Notice is hereby given that the corporations listed below have, pursuant to § 107.105 of the regulations governing small business investment companies (13 CFR 107.105 (1978)), surrendered their licenses under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

Name: Cascade Capital Corp.
Location: Minneapolis, Minn. 55402.
Date licensed: Apr. 1, 1960.
License No.: 05/13-0002.
Date of surrender: Apr. 24, 1978.

Name: Central Investment Corp. of Denver.
Location: Denver, Colo. 80202.
Date licensed: Apr. 5, 1960.
License No.: 08/11-0006.
Date of surrender: June 30, 1978.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the licenses was accepted and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 25, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-24642 Filed 8-31-78; 8:45 am]

[8025-01]

[License No. 06/06-0202]

FIRST CAPITAL CORP. OF NEW MEXICO

Issuance of License To Operate as a Small Business Investment Company

On May 23, 1978, a notice was published in the FEDERAL REGISTER (43 FR 22120) stating that First Capital Corp. of New Mexico, presently located at 8421 Osuna Road NE., Albuquerque, N. Mex. 87111, had filed an application with the Small Business Administration, pursuant to § 107.102 of the rules and regulations governing small business investment companies (13 CFR 107.102 (1978)) for a license to operate as a small business investment company (SBIC).

The public was given until the close of business June 7, 1978, to submit written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other information, SBA has issued pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, License No. 06/06-0202 effective August 15, 1978.

(Catalog of Federal Domestic Assistance Program 59.011, Small Business Investment Companies.)

Dated: August 25, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-24643 Filed 8-31-78; 8:45 am]

[8025-01]

[License No. 09/09-0220]

LANDERS CAPITAL CORP.

Issuance of Small Business Investment Company License

On May 10, 1978, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (vol. 43, No. 91) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102(1978)), for a license to operate as a small business investment company by Landers Capital Corp., 9255 Sunset Boulevard, Los Angeles, Calif. 90069.

Interested parties were given until the close of business on May 25, 1978, to submit their comments. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA issued license No. 09/09-0220 to Landers Capital Corp. on August 16, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 25, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-24644 Filed 8-31-78; 8:45 am]

[8025-01]

REGION I—ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vt., will hold a public meeting at 9:30 a.m., on Friday, October 6, 1978, in the meeting room of the Holiday Inn, Waterbury, Vt., to discuss such business as may be presented by members,

staff of the Small Business Administration, or others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, 87 State Street, P.O. Box 605, Federal Building, Montpelier, Vt. 05602, 802-229-0538.

Dated: August 28, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[For Doc. 78-24648 Filed 8-31-78; 8:45 am]

[8025-01]

REGION II—ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Hato Rey, will hold a public meeting at 9:30 a.m., on Friday, November 3, 1978, at the Bankers Club, Banco Popular Center, Hato Rey, P.R., to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Antonio Yordan, District Director, U.S. Small Business Administration, U.S. Courthouse and Federal Building, Carlos Chardon Avenue, Room 691, Hato Rey, P.R. 00918, 809-753-4218.

Dated: August 24, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24650 Filed 8-31-78; 8:45 am]

[8025-01]

REGION VI—ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Albuquerque, N. Mex., will hold a public meeting at 10 a.m. to 3 p.m. on Wednesday, September 27, 1978, in Room 320 Patio Plaza Building, Albuquerque, N. Mex., to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Anthony Panagakos, District Director, U.S. Small Business Administration, 5000 Marble Avenue NE., Patio Plaza Building, Albuquerque, N. Mex. 87110, 505-474-3574.

Dated: August 28, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24649 Filed 8-31-78; 8:45 am]

[8025-01]

REGION X—ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Seattle, Wash., will hold a public meeting at 9 a.m., on Thursday, September 28, 1978, in the Sea-First Board Room, Dexter-Horton Building, 710 Second Avenue, Seattle, Wash., to discuss such business as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write or call Robert F. Caldwell, District Director, U.S. Small Business Administration, 915 Second Avenue, Federal Building, Room 1744, Seattle, Wash. 98174, 206-399-7791.

Dated: August 28, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-24651 Filed 8-31-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1515]

VIRGINIA

Declaration of Disaster Loan Area

The independent city of Roanoke, Va., and the adjacent independent city of Salem and the adjacent county of Roanoke in the State of Virginia, constitute a disaster area because of damage resulting from heavy rains and flooding which occurred on August 4 through 5, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 23, 1978 and for economic injury until the close of business on May 22, 1979 at:

Small Business Administration, District Office, Federal Building, Room 3015, 400 North Eighth Street, Richmond, Va. 23240.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 22, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-24646 Filed 8-31-78; 8:45 am]

[8025-01]

[License No. 09/09-0224]

WESTERN BANCORP VENTURE CAPITAL CO.

Issuance of Small Business Investment Company License

On June 1, 1978, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (Vol. 43, No. 106) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102(1978)), for a license to operate as a small business investment company by Western Bancorp Venture Capital Co., 707 Wilshire Boulevard, Los Angeles, Calif. 90017.

Interested parties were given until the close of business on June 16, 1978, to submit their comments. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considererd the application and all other pertinent information and facts with regard thereto, SBA issued License No. 09/09-0224 to Western Bancorp Venture Capital Co. on July 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: Aug. 25, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-24645 Filed 8-31-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/99]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The panel on bulk cargoes of the Working Group on Subdivision and Stability—a component of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS)—will conduct an open meeting at 10 a.m. on Thursday, September 21, 1978, in Room 8236 of the Department of Transportation, 400 7th Street SW., Washington, D.C.

The purpose of the meeting is to review the outcome of the 19th session of the Subcommittee on Containers and Cargoes of the Intergovernmental Maritime Consultative Organization (IMCO) held in London, July 24-28.

Requests for further information on the meeting should be directed to Mr. Edward H. Middleton, U.S. Coast

Guard (G-M/82), Washington, D.C. 20590, telephone 202-426-2170; or Capt. S. Fraser Sammis, National Cargo Bureau, Inc., Suite 2757, 1 World Trade Center, New York, N.Y. 10048, telephone 212-432-1280.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

AUGUST 22, 1978.

[FR Doc. 78-24712 Filed 8-31-78; 8:45 am]

[4810-35]

DEPARTMENT OF THE TREASURY

Bureau of Government Financial Operations

[Treasury Department Order No. 229-4]

SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Delegation of Authority to Renew Certificates of Authority as Acceptable Surety on Federal Bonds

By virtue of the authority vested in the Secretary of the Treasury including the authority in Reorganization Plan No. 26 of 1950, and by virtue of the authority vested in the Fiscal Assistant Secretary by Treasury Department Order No. 190, as revised, and by virtue of the authority vested in me, as Commissioner of the Bureau of Government Financial Operations, by Treasury Department Order No. 229-3, November 5, 1976 (41 FR 51490, Nov. 22, 1976), there is hereby delegated to the Assistant Comptroller for Auditing or his designate, or an Audit Manager, the authority of the Secretary of the Treasury under 31 CFR 223.3(a) to renew a company's certificate of authority with an annual underwriting limitation letter, so long as the company remains qualified under 6 U.S.C. 6-13 and the regulations appearing at 31 CFR, part 223.

Effective date: This delegation of authority shall be effective as of September 1, 1978.

Dated: August 28, 1978.

D. A. PAGLIAI,
Commissioner.

[FR Doc. 78-24670 Filed 8-31-78; 8:45 am]

[4810-35]

Fiscal Service

[Dept. Circ. 570, 1978 Rev., Supp. No. 2]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $3,497,000 has been established for the company.

NAME OF COMPANY, BUSINESS ADDRESS, AND STATE IN WHICH INCORPORATED

Old Republic Insurance Co., 141 West Pittsburgh Street, Greensburg, Pa. 15601, Pennsylvania.

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: August 28, 1978.

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

[FR Doc. 78-24702 Filed 8-31-78; 8:45 am]

[4810-22]

Office of the Secretary

CUMENE FROM THE NETHERLANDS

Antidumping; Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a tentative determination that cumene from the Netherlands is being sold at less than fair value within the meaning of the Antidumping Act, 1921. 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. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested parties are invited to comment on this action not later than October 2, 1978.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 17, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Gulf Oil Chemicals Co., a division of Gulf Oil Corp., alleging that cumene from the Netherlands is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping 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 February 23, 1978 (43 FR 7497).

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), I hereby determine that there are reasonable grounds to believe or suspect that the exporter's sales price of cumene from the Netherlands is less, or is likely to be less, than the fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

a. *Scope of the investigation.* It appears that 100 percent of imports of the subject merchandise from the Netherlands were sold for export to the United States by Dow Chemical (Nederland) B.V. (Dow-Europe). The investigation was therefore limited to sales by Dow-Europe.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between exporter's sales price and the third country price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales by Dow-Europe were made to a related importer in the United States, Dow Chemical Co. (Dow-USA). Third country price, as defined in § 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise was not sold in the home market in sufficient quantities to provide a basis for comparison.

A question has been raised as to whether the transactions used in calculating third country price are of sufficient size to constitute an appropriate basis for measuring foreign market value. Due to the fact that these sales are equivalent to more than 10 percent of sales to the United States during the period of investigation, it is determined, at this point in the investiga-

tion, that they do provide an adequate basis of comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and to third countries during the period September 1, 1977, through February 28, 1978.

c. *Exporter's sales price.* For the purpose of this tentative determination, since the merchandise under consideration was further manufactured by the related importer before sale to an unrelated U.S. purchaser, the exporter's sales price was calculated on the basis of the resale price of the end products, phenol and acetone, in accordance with section 204 of the act. Adjustments were made for processing costs, including materials, labor, and general expenses, and any additional costs and charges incident to bringing the merchandise from the point of shipment in the Netherlands to the point of delivery in the United States. These charges were for ocean freight and insurance. All applicable charges incurred in the resale of the merchandise were included in the processing costs.

d. *Third country price.* For purposes of this determination, the third country price has been calculated on the basis of the weighted average f.o.b. price to Italy and West Germany. Deductions were made for inland freight and insurance. No other adjustments were claimed or made.

e. *Cost of production.* Since the petition contained an allegation of sales at less than the cost of production, pursuant to section 205(b) of the act (19 U.S.C. 164(b)), information was obtained concerning the production cost of cumene from the Netherlands. The cost of production was determined on the basis of the cost of materials, the cost of labor, and general expenses incurred in the manufacture and sale of the merchandise, as provided for in § 153.5, Customs Regulations (19 CFR 153.5).

A claim was made for a deduction for an investment incentive allowance. This allowance is in the form of a reduction in corporate income taxes. This claim was denied since income taxes are not a part of production costs. Therefore, any reduction in income taxes cannot be granted as a production cost credit.

On the basis of the information submitted, it has been tentatively determined that Dow-Europe is not selling cumene to third countries at less than the cost of producing the merchandise.

f. *Results of fair value comparsions.* Using the above criteria, comparsions were made on approximately 65 percent of the sales of the subject merchandise to the United States during the period of investigation. Those comparisons indicated that the exporter's sales price of cumene from the Netherlands was less, or likely to be less, than the third country price of such or similar merchandise. Margins were found on approximately 45.3 percent of the sales compared, ranging from 0.4 to 38.5 percent. A weighted average margin of approximately 7.9 percent was found on all sales compared.

Accordingly, Customs officers are being directed to withhold appraisement of cumene from the Netherlands in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than September 18, 1978. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than October 2, 1978. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are requested to serve all written submissions on all other counsel and to file their submissions with the Commissioner of Customs in 10 copies.

This notice, which is published pursuant to § 153.35(b) of the Customs Regulations (19 CFR 153.35(b)), shall become effective September 1, 1978. It shall cease to be effective on or before March 1, 1979, unless previously revoked.

HENRY C. STOCKELL, Jr.,
Acting General Counsel
of the Treasury.

AUGUST 25, 1978.

[FR Doc. 78-24677 Filed 8-31-78; 8:45 am]

[4810-22]

CUMENE FROM ITALY

Antidumping; Tentative Discontinuance of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Tentative discontinuance of antidumping investigation.

SUMMARY: This notice is to advise the public that it has been tentatively determined to discontinue the antidumping investigation concerning cumene from Italy because the margin of dumping involved is minimal in relation to the volume of exports and appropriate assurances have been filed that in the future sales will not be made at less than fair value. Future shipments will be monitored in order to insure the price assurances are not being violated.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 17, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Gulf Oil Chemicals Co., a division of Gulf Oil Corp., alleging that cumene from Italy is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping 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 February 23, 1978 (43 FR 7497).

TENTATIVE DISCONTINUANCE OF ANTIDUMPING INVESTIGATION

On the basis of information developed in the Customs investigation and for the reasons noted below, pursuant to § 153.33(b) of the Customs Regulations (19 CFR 153.33(b)), I hereby determine that the antidumping investigation concerning cumene from Italy should be tentatively discontinued.

STATEMENT OF REASONS ON WHICH THIS DISCONTINUANCE IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the investigation.* It appears that virtually all the cumene imported from Italy was manufactured by Saras Chimica, a subsidiary of ANIC S.p.a. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purpose of considering whether the merchandise is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the home market price of such or similar merchandise. Purchase price as defined in section 203 of the Act (19 U.S.C. 162) was used since all export sales to the United States appear to be made to nonrelated customers. Home market

price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold by Saras Chimica in the home market in sufficient quantities to provide a basis for fair value.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales in the home market and to the United States during the period September 1, 1977, through February 28, 1978.

c. *Purchase price.* For the purposes of this tentative discontinuance, since all merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the f.o.b. plant price to unrelated U.S. purchasers. No deductions were deemed appropriate from this price.

d. *Home market price.* For the purposes of this tentative discontinuance, the home market price has been calculated on the basis of the f.o.b. plant price to unrelated Italian purchasers. No adjustments to this price were claimed or made. The merchandise sold in the home market was identical to that sold to the United States.

The petition contained an allegation that sales of the subject merchandise in the home market were being made at less than the cost of production pursuant to section 205(b) of the Act (19 U.S.C. 164(b)). An analysis of the Italian manufacturer's production cost, which was taken from actual records reflecting material, labor, and general expenses, has not supported this allegation.

e. *Result of fair value comparisons.* Using the above criteria, comparisons were made on virtually all of the sales of the subject merchandise to the United States by Saras Chimica during the representative period and these comparisons indicated that the purchase price was less than the home market price of such or similar merchandise. Margins were tentatively found to be approximately 0.5 percent on all sales to the United States. The weighted average margin when rated over 100 percent of the sales amounted to 0.5 percent. These margins have been determined to be minimal in terms of the volume of exports involved. In addition, formal assurances have been received from counsel acting on behalf of Saras Chimica, that Saras Chimica will make no future sales at less than fair value within the meaning of the Act. These assurances were filed in accordance with § 153.33(c), Customs regulations (19 CFR 153.33(c)).

For the reasons stated above, the antidumping investigation of cumene from Italy is being tentatively discontinued in accordance with section 201(b)(1)(C) of the Act (19 U.S.C. 160(b)(1)(C)), and § 153.33(b), Customs regulations (19 CFR 153.33(b)).

In accordance with § 153.40, Customs regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than September 18, 1978. Such request must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than October 2, 1978. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are requested to serve all written submissions on all other counsel and to file their submissions with the Commissioner of Customs in 10 copies.

This notice is published pursuant to § 153.33(b) of the Customs regulations (19 CFR 153.33(b)).

HENRY C. STOCKELL, Jr.,
Acting General Counsel
of the Treasury.

AUGUST 25, 1978.

[FR Doc. 78-24676 Filed 8-31-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 143]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-23067 appearing at page 36553 in the issue for Thursday, August 17, 1978, in the middle column of page 36554, change "MC 12879 (Sub-32TA)" to read "MC 128279 (Sub-32TA)".

[1505-01]

[Volume No. 83]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-10605 appearing at page 16855 in the issue of Thursday, April 20, 1978, on page 16865, in No. MC 138144 (Sub-No. 27F) second column, forth line down the abbrevation "NT" should be corrected to read, "MT".

[1505-01]

[Notice No. 131]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-20819 appearing to page 32523 in the issue for Thursday, July 27, 1978, make the following correction:

On page 32523, third column, third full paragraph, in MC 29910 (Sub-190TA), ninth line down the word "irregular" should be changed to read "regular".

[1505-01]

[Notice No. 140]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-22461 appearing at page 35780 in the issue for Friday, August 11, 1978, in the third column, fourth paragraph, in MC 17051 (Sub-18TA), second line the word "BARNETT'S" should be changed to read "BARNET'S".

[7035-01]

[Notice No. 709]

ASSIGNMENT OF HEARINGS

AUGUST 29, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps

to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113855 (Sub-408F), International Transport, Inc., MC 106644 (Sub-252F), Superior Trucking Company, Inc., and MC 117574 (Sub-296F), Daily Express, Inc., now being assigned November 7, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 87103 (Sub-23), Miller Transfer & Rigging Co., now being assigned November 17, 1978 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC 128273 (Sub-280), Midwestern Distribution, Inc., now being assigned November 15, 1978 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 1142059 (Sub-23F), Cardinal Transport, Inc., now being assigned November 13, 1978 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 139254 (Sub-14F), Brooks Transportation, Inc., now being assigned for hearing November 20, 1978, at Columbus, Ohio (1 day), in a hearing room to be later designated.

MC 217 (Sub-19), Point Transfer, Inc., and MC 45194 (Sub-17), Lattavo Brothers, Inc., and MC 45194 (Sub-18F), Lattavo Brothers, Inc., now being assigned for hearing on November 21, 1978 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC-C 10094, *International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America* v. *Akers Motor Lines, Inc. et al.*, now being assigned October 31, 1978, at the Offices of the Interstate Commerce Commission.

MC 103051 (Sub-437F), Fleet Transport Co., Inc., now being assigned November 1, 1978, at the Offices of the Interstate Commerce Commission.

MC 109704 (Sub-3F), Chemtrans, Inc., now being assigned October 5, 1978, at the Offices of the Interstate Commerce Commission.

MC 103993 (Sub-931F), Morgan Drive-Away, Inc., now being assigned October 3, 1978 (PHC), at the Offices of the Interstate Commerce Commission.

MC 83539 (Sub-480), C. & H. Transportation Co., Inc., now assigned for September 12, 1978, at Denver, Colo., is canceled and transferred to modified procedure.

MC 19157 (Sub-50F), McCormack's Highway Transportation, Inc., now assigned for hearing on September 7, 1978, at Nashville, Tenn., is advanced to August 31, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

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

[FR Doc. 78-24733 Filed 8-31-78; 8:45 am]

[7035-01]

[Notice No. 157]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 22, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publications no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 2900 (Sub-338TA), filed July 3, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32209. Representative: John Carter, 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32209. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Glass containers and accessories*, from Streator, IL, to points in the State of MI, restricted to the transportation of shipments originating at the named origin and destined to points in the named State, for 180 days. Supporting shipper(s): Owens-Illinois, Inc., Box 1035, Toledo, OH 43666. Send protests to: G. H. Fauss, Jr., District Supervisor, ICC., Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 16346 (Sub-11TA), filed July 3, 1978. Applicant: STORY'S EXPRESS CO., INC., 1618 Union Avenue, Pennsauken, NJ 08110. Representative: Richard Rueda, Esq., 135 North 4th Street, Philadelphia, PA 19106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and papermaking material*, except in bulk, between the facilities of Scott Paper Co. at or near Philadelphia, PA, and Chester, PA, and their respective commercial zones, and the facilities of or utilized by Scott Paper Co. at or near Fort Edward, NY, and its commercial zone, for 180 days. Supporting shipper(s): Scott Paper Co., Scott Plaza I, Philadelphia, PA 19113. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 33970 (Sub-20TA), filed July 6, 1978. Applicant: GEORGE HILDEBRANDT, INC., R. R. No. 2, Hudson, NY 12534. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and building tile*, from Albany County and Saratoga County, NY, to all points in the State of VT and Berkshire County, MA, for 180 days. Supporting shipper(s): Nomack Building Materials Corp., 14 Campus View Drive, Loudonville, NY 12211. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, NY 12201.

MC 41404 (Sub-148TA), filed July 7, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Box 440, Fulton Highway, Martin, TN 38237. Representative: Mr. Mark L. Horne, P.O. Box 440, Fulton Highway, Martin, TN 38237. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products* other than frozen, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of Citrus World, Inc., at Winston-Salem, NC, to GA, IL, IN, KS, KY, LA, MO, OH, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Citrus World, Inc., 2720 North Marshall Street, Winston-Salem, NC 27105. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 52579 (Sub-173TA), filed July 3, 1978. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Irwin Rosen, One Gilbert Drive, Secaucus, NJ 07094. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel on hangers used by wearing apparel stores, and return of defective, damaged, out of season, or unsaleable wearing apparel*, from Jackson, TN, to Miami, FL, for 180 days. Applicant does not intend to tack or interline. Applicant has also

filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bellevue Apparel Manufacturing Co., 343 Bellevue Street, Jackson, TN 38301. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

NOTE.—If a hearing is deemed necessary, applicant request it be held at New York, NY, or Memphis, TN.

MC 61403 (Sub-257TA), filed July 6, 1978. Applicant: THE MASON & DIXON TANK LINES, INC., Highway 11-W, P.O. Box 969, Kingsport, TN 37662. Representative: Charles E. Cox, Highway 11-W, P.O. Box 969, Kingsport, TN 37662. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil* (in bulk, in tank vehicles), between Rochester, NY, on the one hand, and, on the other, Kingsport, TN, for 180 days. Supporting shipper(s): Tennessee Eastman Co., P.O. Box 511, Kingsport, TN 37662. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 67866 (Sub-35TA), filed July 7, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, P.O. Box 18642, Memphis, TN 38118. Representative: Mr. Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and livestock), between points in an area and on the line which bounds that area commencing at the southwest corner of AR, thence north along the AR-TX State line to Texarkana, AR, thence west along the AR-TX State line to the AR-OK State line, thence north along the AR-OK State line to the AR-MO State line, thence east along the AR-MO State line to its intersection with U.S. Hwy 62, thence east along U.S. Hwy 62 to New Madrid, MO, at the Mississippi River, thence northeast along the meanders of the Mississippi and Ohio Rivers, to Paducah, KY, thence southeast along U.S. Hwy 68 to its intersection with U.S. Hwy 641, thence south along U.S. Hwy 641 to the KY-TN State line, thence east along the KY-TN State line to its intersection with U.S. Hwy 31W, thence south along U.S. Hwy 31W to Nashville, TN, thence southeast along TN Hwy 50 to Lewisburg, TN, thence south along U.S. Hwy 31 to Columbia, TN, thence south along U.S. Hwy 431 to the TN-AL State line, thence west along the TN-AL State line to its intersection with AL Hwy 17, thence south along AL Hwy 17 to Hamilton, AL, thence west along U.S. Hwy 78 to the AL-MS State line, thence south along the MS-AL State line to the Gulf of Mexico, thence west along the meanders of the Gulf of Mexico to the MS-LA State line, thence west along the meanders of the Gulf of Mexico to the LA-TX State line, thence north along the LA-TX State line to the LA-TX-AR State lines, thence north along the TX-AR State line to the point of beginning, and Lilbourn, MO, for 180 days. Restrictions: No service shall be rendered in the transportation of any package or article weighing more than 70 pounds or exceeding 96 inches in length, or 150 inches in length and girth combined. No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 200 pounds from one consignor to one consignee on any one day.

NOTE.—Applicant now has identical permanent authority throughout the territory described herein with the exception of points in MS south of U.S. Hwy 80, and points in LA, except New Orleans, LA. That authority is contained in its Sub-33, which will be offered for cancellation if this application is granted. Applicant intends to interline with other carriers at Texarkana, TX, and New Orleans, LA. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 222 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 96324 (Sub-27TA), filed July 7, 1978. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Coventry, Lincoln, Woonsocket, and Providence, RI, and points in their commercial zones, to New York City, Hudson, Woodside, Clintondale, and Milton, NY; Philadelphia, Cornwell Heights, and Hatboro, PA; and Lawnside, Newark, Dayton, Carlstadt, and Scobeyville, NJ, and points in their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Bottle Co., One Bala Cynwyd Plaza, Bala Cynwyd, PA 19004. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

MC 113751 (Sub-23TA), filed July 3, 1978. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, WI 54981. Representative: James A. Spiegel, Olde Town Office Park, 6401 Odana Road, Madison, WI 53719. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and frozen potato products*, from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, WI, to points in AL, FL, IL, IN, IA, MI, MN, MO, NB, NJ, NY, ND, OH, PA, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wiscold, Inc., 11400 West Burleigh Street, P.O. Box 26336, Milwaukee, WI 53226, James H. Kuehn, President. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 61, Milwaukee, WI 53202.

MC 115214 (Sub-32TA), filed July 6, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poles and cross ties*, from Gainesville, FL, to Mobile, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Koppers Co., Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 118159 (Sub-272TA), filed July 7, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber articles, plastic articles, and rubber and plastic combined products*, from the facilities of Entek Corp. of America at or near Irving, TX, to Monrovia, El Monte, Brea, Tustin, Santa Ana, and Azusa, CA; Oklahoma City and Tahlequah, OK; Cairo, Savannah, and Valdosta, GA; Canby and Portland, OR; Kissimmee, Tampa, Deerfield, and Orlando, FL; Birmingham, Dothan, and Mobile, AL; Charlotte, Greensboro, and Raleigh, NC;

Charleston, Columbia, and Greenville, SC; Chattanooga, Memphis, McMinnville, and Nashville, TN; Lake Charles, Monroe, Franklinton, Shreveport, and Youngsville, LA; Dundee and Chicago, IL; Grand Haven, Muskegon, Troy, West Olive, and Zeeland, MI; Garden City, Great Bend, Kansas City, Lawrence, Salina, Topeka, and Wichita, KS; and Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Entek Corp. of America, P.O. Box 61048, Irving, TX 75060.

MC 118535 (Sub-124TA), filed July 6, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Representative: Tom Ventura, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, from Hammond, IN, to the Kansas City, MO-KS Commercial Zone, as defined by the Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Hammon Lead Products, Inc., Hammond, IN 46325, (2) Chloride Industrial Batteries, Kansas City, KS 66115. Send protests to: John V. Barry, District Supervisor, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 119493 (Sub-217TA), filed July 6, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th Street Road, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, boxes, lumber, and wood products*, between Independence, KS, and AR, MO, NE, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Baxter Manufacturing Co., Inc., P.O. Box 654, Independence, KS 67301. Send protests to: John V. Barry, District Supervisor, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 119654 (Sub-50TA), filed July 6, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and ends*, from Chicago, IL, Commercial Zone, to Detroit, MI., Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 128527 (Sub-117TA), filed July 3, 1978. Applicant: May Trucking Co., P.O. Box 398, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such *commodities* as are dealt in by grocery and food business houses (except foodstuffs and soap and soap products) between points in NV, OR, UT, WA, and those points in ID south of the southern boundary of Idaho County, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Albertsons, Inc, General Offices, Boise, ID 83726: URM Stores, Inc., North 751 Freya Street, Spokane, WA 99210; and The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Barney L Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 129063 (Sub-21TA), filed July 7, 1978. Applicant: JIMMY T. WOOD, Box 294, Route 6, Ripley, TN 38063. Representative: Mr. Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry urea*, in bulk, in dump vehicles, from the plantsite of W. R. Grace Co., located at or near Woodstock, TN, to points in AR, LA, TX, OK, MO, IL, IN, OH, KY, MS, and AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., P.O. Box 277, 100 North Main Street, Memphis, TN 38103. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

MC 135684 (Sub-84TA), filed July 7, 1978. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Herbert A. Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and feed business houses*, in containers, from the plant sites and storage facilities of Ralston Purina Co. at or near Dunkirk, NY to points in OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 135707 (Sub-4TA), filed July 7, 1978. Applicant: DIETZ TRUCKING, INC., Rich Hill Road, Cheswick, PA 15024. Representative: William J. Lavelle, Esquire, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission, from Pittsburgh, PA, to the Rehobeth Industrial Park located at or near Pricedale, PA, restricted to traffic having an immediately prior movement by rail, under a continuing contract or contracts with Montgomery Ward & Co., for 180 days. Supporting shipper: Montgomery Ward & Co., General Traffic Manager, Montgomery Ward Plaza, Chicago, IL 60671. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 135874 (Sub-133TA), filed July 6, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: K. O. Petrick, 550 East 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Omaha, NE, to points in MN, IA, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louis Albert Foods, P.O. Box 11055, Ames Avenue Station, Omaha, NE 68111. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 135874 (Sub-134TA), filed July 6, 1978. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Representative: K. O. Petrick, 550 East Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk), from St. Paul,

MN; Peoria, IL, and Milwaukee, WI, to Rapid City, SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Highland Beverage Co., 802 East St. Patrick Street, Rapid City, SD 57701. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

MC 136343 (Sub-142TA), filed July 3, 1978. Applicant: MILTON TRANSPORTATION, INC., R.O. 1 Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products, printed or not printed*, from Berwick, PA, to Atlanta, GA; Melrose Park and Chicago, IL; Lexington, KY; Durham, NC; Secaucus, NJ; Johnson city, White Plains, Yorktown Heights, Kingston, and East Fishkill, NY; Essex Junction, VT; Detroit, MI; Columbus, OH; Manassas, VA; Gaithersburg, MD, and Boston, MA, for 180 days. Supporting shipper: Data Com Inc., Box 268, Berwick, PA 18603. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 139023 (Sub-5TA), filed July 6, 1978. Applicant: 2-G TRANSPORTATION, INC., 10 East Minnesota Street, Savage, MN 55378. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, WI, to Minneapolis, MN, for 180 days. Supporting shipper: Pohle Sales, 81 S. Anthony Boulevard, Minneapolis, MN 55418. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South Fourth Street, Minneapolis, MN 55401.

MC 141046 (Sub-8TA), filed July 3, 1978. Applicant: MASON O. MITCHELL, d.b.a. M MITCHELL TRUCKING, 1911 "I" Street, LaPorte, IN 46350. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Starch and dextrine*, in containers, from the facilities of the National Starch & Chemical Corp. at or near Island Falls, ME, to points in CA, FL, IL, IN, MI, MN, OH, TX, and WI, under a contract or continuing contracts with National Starch & Chemical Corp.; (2) *Adhesives, chemicals, starch, dextrine, and plastic*, except in bulk, from points in CA, IL, IN, MI, MN, OH, TX, and WI to ME, under a contract or continuing contracts with National Starch & Chemical Corp.; for 180 days. Supporting shipper: Island Falls Starch Co., a subsidiary of National Starch & Chemical Corp., H. G. Kavanagh, Traffic Manager, P.O. Box 6500, Bridgewater, NJ. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142062 (Sub-15TA), filed July 3, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring, washing, and buffing compounds*, and such other commodiates as are dealt in or distributed by manufacturer of the above commodities. From the facilities of Rochester Germicide Co., Inc., at or near Montgomery, IL. To Memphis, TN; Atlanta, GA; New Orleans, LA; Dallas, TX; Tampa, FL; San Diego, CA; Los Angeles, CA; San Francisco, CA; St. Paul, MN; Des Moines, IA; St. Louis, MO; and Indianapolis, IN, under a continuing contract or contracts with Rochester Germicide Co., Inc. for 180 days. Supporting shipper: Rochester Germicide Co., Inc., P.O. Box 1515, Rochester, NY 14603. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 143031 (Sub-5TA), filed July 7, 1978. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY AND ERNEST STEWART MURPHY, d.b.a. MURPHY & SONS, Rt. 2. P.O Box 139, Spring City, TN 37381. Representative: H. Stan Guthrie, Attorney, Suite 100, MacLellan Building, Chattanooga, TN 37402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crated household refrigerators*, from the facilities of Columbus Products, Columbus, OH, to the facilities of Magic Chef, Inc. in Cleveland, TN, under a continuing contract or contracts with Magic Chefs, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Magic Chef, Inc., 740 King Edward Avenue., Cleveland, TN 37311. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 144433 (Sub-1TA), filed July 3, 1978. Applicant: DOUGLAS G. MARCHIONDA, d.b.a. DOUG MARCHIONDA, Champlin Avenue, Penn Yan, NY 14527. Representative: S. Michael Richards/Raymond A. Richards, 44 North Avenue, Webster, NY 14580, phone 716-872-3535. Authority sought to operate a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Gorham, NY, to Miami, FL, and the commercial zone of Miami, FL, Tampa, FL, and the commercial zone of Tampa, FL, Atlanta, GA, and the commercial zone of Atlanta, GA, Chicago, IL, and the commercial zone of Chicago, IL, Gary, IN, and the commercial zone of Gary, IN, Detroit, MI, and the commercial zone of Detroit, MI, Hendersonville, NC, and the commercial zone of Hendersonville, NC, Franksville, WI, and the commercial zone of Franksville, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lohmann Foods, 4651 Dewey Avenue, Gorham, NY 14461. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260.

MC 144963TA, filed June 21, 1978. Applicant: W. E. BATTLES, d.b.a. JOBBERS FREIGHT SERVICE, 111 North College Street, Grangeville, ID 83530. Representative: Timothy Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by wholesale, retail,and chain auto, truck, and tractor supply houses, and (2) *welding supplies and compressed gases in containers*, (I) the commodities as described in (1) and (2) from Spokane, WA, to Grangeville, ID, restricted to shipments moving for the account of Black Auto Parts; (2) the commodities as described in (1) (a) from Spokane, WA, to Grangeville, ID, restricted to shipments moving for the account of John Hoene Implement & Idaho County Sales; (b) from Spokane, WA, to Lewiston, ID, restricted to shipments moving for the account of C-Mac Auto Parts; (c) from Spokane, WA, to Orofino, ID, restricted to shipments moving for the account of Valley Motor Parts; (d) from Spokane, WA, to Lewiston, ID, restricted to shipments moving for the account of Industrial Parts & Machine, Inc.; (e) from Spokane, WA, to Moscow, ID, restricted to shipments for the account of McGraw's Auto Parts; (f) from Spo-

kane, WA, to Kamiah, ID, restricted to shipments for the account of Monty's Kamiah Auto Center; (g) from Spokane, WA, to Clarkston, WA, restricted to shipments for the account of Clarkston Auto Parts, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (eight) statements of support attached to the application which may be examined at the Interstate Commerce Commission's in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Barney L. Hardin, District Supervisor, 1471 Shoreline Drive, Room 110, Boise, ID 83706.

MC 144982 (Sub-1TA), filed July 3, 1978. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 South High Street, Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard boxes, knocked down*, from the facilities of J. G. Clark Co. in Morrow County, OH, to points in AZ, CA, CO, NM, NV, OK, TX, and UT, for 180 days. This application is for common carrier rights. Applicant presently holds authority as a *contract carrier* in MC 141759. Supporting shipper(s): J. G. Clark Co., Edison, OH 43320. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 145041 (Sub-1TA), filed July 3, 1978. Applicant: INTERMOUNTAIN TRANSPORT, INC., 22030b South Edgar Street, Carson, CA 90745. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feldspar* (in bulk), from the facilities of Arizona Feldspar Co. located at or near Kingman, AZ, to the facilities of Westwood Ceramic Supply Co. located at City of Industry, CA, and the facilities of Norris Industries located at City of Industry, CA, the facilities of American Standard located at Torrance, CA, and the facilities of Universal Rundle located at Mentone, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Westwood Ceramic Supply Co., 14400 Lomitas Avenue, City of Industry, CA 91744. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145118 (Sub-1TA), filed June 23, 1978. Applicant: DENNIS W. BOKNECHT, R.R. 5, Seymour, IN 47274. Representative: Edwin J. Simcox, Suite 800, Circle Tower Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bean meal*, from the facilities of Ralston Purina in Louisville, KY, and Lauhoff Grain in Danville, IL, to the facilities of Rose Acre Farms, Inc., in Jackson and Jennings Counties, IN, for 180 days. Supporting shipper(s): Rose Acre Farms, Inc., Seymour, IN 47274. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MOTOR CARRIER OF PASSENGERS

MC 145008 (Sub-1TA), filed July 7, 1978. Applicant: WESTERN SAFARIS, INC., d.b.a. HEART OF AMERICA TOURS, 3379 Wedgewood Drive, El Paso, TX 79925. Representative: D. Paul Stafford, Suite 1125, Exchange Park, Dallas, TX 75235. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, their baggage and camping equipment*, in special operations, in camping and sightseeing tours, between El Paso, TX; Denver, CO; Los Angeles and San Francisco, CA; on the one hand, and, on the other, points in AZ, CA, CO, NM, TX, and UT, for 180 days. Restriction: Restricted to transportation in vehicles having a seating capacity of not more than 20 passengers, excluding the driver thereof. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 78 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

By the Commission.

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

[FR Doc. 78-24735 Filed 8-31-78; 8:45 am]

[7035-01]

[Docket No. AB-46 (Sub-15F)]

WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO., DEBTOR, ABANDONMENT NEAR ROYAL AND HARTLEY IN CLAY AND O'BRIEN COUNTIES, IA

Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a certificate and decision dated August 9, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by William M. Gibbons, trustee of the property of Chicago, Rock Island & Pacific Railroad Co., debtor, of a line of railroad known as Royal to Hartley extending from railroad milepost 502.42 near Royal to railroad milepost 515.39 near Hartley, a distance of 12.97 miles, in Clay and O'Brien Counties, IA. A certificate of public convenience and necessity permitting abandonment was issued to William M. Gibbons, trustee of the property of Chicago, Rock Island & Pacific Railroad Co., debtor. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 18, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective October 16, 1978.

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

[FR Doc. 78-24732 Filed 8-31-78; 8:45 am]

[7035-01]

[Docket No. AB-26 (Sub-12F)]

VIRGINIA & SOUTHWESTERN RAILWAY CO. AND SOUTHERN RAILWAY CO. ABANDONMENT NEAR MOCCASIN GAP AND BRISTOL, VA, IN WASHINGTON AND SCOTT COUNTIES, VA, AND IN BRISTOL, SULLIVAN COUNTY, TN

Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an certificate and decision dated August 8, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Virginia & Southwestern Railway Co. and abandonment of operations by Southern Railway Co. of two segments of their line of railroad which extends from Moccasin Gap, VA, to Bristol, TN. One segment to be abandoned extends from milepost 40.0T at Moccasin Gap approximately 28 miles to a point near milepost 68.0T in Bristol, in Washington and Scott Counties, VA. The other segment is approximately 1 mile in length within Bristol, Sullivan County, TN, and extends from approximately milepost 71.4T to the end of the line near milepost 72.5T. Because of the layout of the track, the distance between mileposts is not exactly 1 mile. The intervening trackage between the two segments to be abandoned will not be included in or affected by the abandonment. A certificate of public covenience and necessity permitting abandonment was issued to Virginia & Southwestern Railway Co. and abandonment of operation to Southern Railway Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (§ 112.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 18, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective October 16, 1978.

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

[FR Doc. 78-24734 Filed 8-31-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the August 31, 1978, agenda; M-158, Amdt. 2, August 28, 1978.

TIME AND DATE: 10 a.m., August 31, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: A. Ratification of items adopted by notation.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item was inadvertently omitted from the August 31, 1978, agenda. Accordingly, the following Members have voted that agency business requires the addition of Item A to the August 31, 1978 agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1762-78 Filed 8-30-78; 3:46 pm]

[3410-05]

2

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 2 p.m., September 8, 1978.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board Meeting on June 6, 1978.
2. Docket TCP 110a, re 1978-crop flaxseed purchase agreement program.
3. Docket TCP 137a, Amendment 1 re 1978-crop barley, corn, oats, rye, sorghum, and wheat loan, purchase, payments, set-aside and land diversion programs.
4. Docket TCO 309 re Research project—testing 1978 crop of tobacco to determine the level of Maleic Hydrazide (MH) residue on cured leaves.
5. Docket SCP 98a. Amendment 3 re Milk price support program, 1977-78.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-1754-78 Filed 8-30-78; 10:04 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 6, 1978.

PLACE: 5th floor hearing room, 2033 K Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Proposed elimination of daily trading limits.
Commission discussion of feasibility of holding a public hearing on the application of the Kansas City Board of Trade for designation as a contract market in the 30 Industrial Stock Average.
Policy discussion of section 217 leverage transactions.

Portions closed to the public:

Rule enforcement review.
Registration cases.
Enforcement matter.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1750-78 Filed 8-30-78; 10:04 am]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., September 8, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1751-78 Filed 8-30-78; 10:04 am]

[6740-02]

5

FEDERAL ENEREGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published August 29, 1978, 43 FR 38664.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 30, 1978.

CHANGE IN THE MEETING: The following item has been added.

Item No., Docket No., and Company

CAG-29. RP78-18, El Paso Natural Gas Co.
M-3. GAO report entitled "The Advance Payments Program: An Uncontrolled Experiment."

LOIS D. CASHELL,
Acting Secretary.

[S-1757-78 Filed 8-30-78; 11:22 am]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 165, Page 37832, Thursday, August 24, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: August 30, 1978, 9:30 a.m.

PLACE: 1700 G Street NW., 6th floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been changed from the open agenda to the closed agenda:

Service Corporation Proposal (Affillated Mortgages & Development Co.)—Albuquerque Federal Savings & Loan Association, Albuquerque, N. Mex.

No. 176, August 29, 1978.

[S-1759-78 Filed 8-30-78; 2:40 pm]

[6720-01]

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: Wednesday, September 6, 1978 at 9:30 a.m.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of proposed merger of Island Federal Savings & Loan Association, Honolulu, Hawaii into First Federal Savings & Loan Association of Hawaii, Honolulu, Hawaii.

Consideration of service corporation activity application—Glendale Federal Savings & Loan Association, Gendale, Calif.

Consideration of tax and loan account regulations.

Loan agency application—Great Western Union Federal Savings & Loan Association, Seattle, Wash.

Branch office application—Security Federal Savings & Loan Association of Billings, Billings, Mont.

Branch office application—Twin City Federal Savings & Loan Association, Minneapolis, Minn.

Designation of Walter L. Guerlin as supervisory agent of the Boston Bank.

Request for modification of bank board resolution—H. N. and Frances C. Berger Foundation, Arcadia, Calif.

No. 177, August 30, 1978.

[S-1761-78 Filed 8-30-78; 3:37 pm]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 28, 1978, 43 FR 38504.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: August 30, 1978, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the open session:

6. Agreement No. 10140-8: Extension of the term of approval of the Gulf/United Kingdom rate agreement.

Deletion of the following item from the open session:

1. Legal objections of Baltic Shipping Co. to section 21 order concerning rates and practices in the Gulf Coast/North Europe trade.

[S-1752-78 Filed 8-30-78; 10:04 am]

[7035-01]

9

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, September 7, 1978.

PLACE: Hearing Room "C", Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open special conference.

MATTER TO BE CONSIDERED:

Order to show cause, Atlanta & West Point Railroad Co., Clinchfield Railroad Co., Georgia Railroad, Seaboard Coast Line Railroad Co., Western Railway of Alabama & Louisville, and Nashville Railroad Co. (discussion only).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1763-78 Filed 8-30-78; 3:46 pm]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, September 5, 1978.

PLACE: Commissions' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

TUESDAY, SEPTEMBER 5

10:30 a.m.—Briefing on status of improving nuclear power plant licensing and implementing certain study group recommendations (approximately 1 hour, public meeting).

2 p.m.—Discussion of J. Honicker Petition (approximately one-half hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

[S-1753-78 Filed 8-30-78; 10:04 am]

[7710-12]

11

POSTAL SERVICE BOARD OF GOVERNORS.

The Committee on Postal Rates of the Board of Governors of the U.S. Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8 a.m. on Thursday, September 7, 1978, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the following recommended decisions of the Postal Rate Commission:

1. Recommended decision of June 16, 1978, to reject a proposal to expand the availability of red tag service and institute a surcharge for expanded service (Docket No. MC76-2).

2. Recommended decision of June 19, 1978, to reject proposals to eliminate single piece third-class and expand parcel post to include pieces weighing less than 1 pound (Docket Nos. MC76-3 and -4).

3. Recommended decision of July 13, 1978, to approve a proposal allowing third-class catalogs to be mailed at fourth-class rates and to reject a proposal to allow fourth-class bound printed matter to be mailed at third class rates (Docket Nos. MC76-3 and -4).

LOUIS A. COX,
Secretary.

[S-1755-78 Filed 8-30-78; 11:22 am]

[7710-12]

12

POSTAL SERVICE BOARD OF GOVERNORS.

The Board of Governors of the United States Postal Service, pursuant to its bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Thursday, September 7, 1978, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

AGENDA

1. Minutes of the previous meeting.
2. Remarks of the Postmaster General.
(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Postal Service Tentative Budget Program for fiscal year 1980.
(Mr. Biglin, Senior Assistant Postmaster General, Finance Group, will present the Postal Service's tentative budget for fiscal year 1980. The Board is scheduled to have its final review of this budget at its December meeting.)
4. Postal Rate Commission Budget for fiscal year 1979.
(Under the Postal Reorganization Act, the Postal Rate Commission periodically prepares and submits to the Postal Service a budget of the Commission's expenses. The budget is to be considered approved as submitted if the Governors of the Postal Service do not act to adjust it by unanimous written decision. This matter is included on the agenda to give the Governors an opportunity to act on the Commission's budget.)
5. Proposed filing with the Postal Rate Commission for Electronic Computer Originated Mail (ECOM).
(Mr. Ulsaker, Senior Postmaster General, Administration Group, will present for Board review a proposed filing with the Postal Rate Commission to change the Domestic Mail Classification Schedule under 39 U.S.C. 3623 to include a new Electronic Computer Originated Mail Service.)
6. Restructuring of Parcel Post Rates.
(Mr. Doran, Regional Postmaster general for the Central Region, will present for Board review a proposed filing with the Postal Rate Commission to provide an improved rate structure for parcel post.)
7. Proposal to establish a new subclass of mail for third-class mail presort to carrier routes.
(Mr. McCaffrey, Assistant Postmaster General, Rates and Classification Department, will present a proposed filing with the Postal Rate Commission for a new Third-class Carrier Route Presort Subclass.)
8. Recommended decisions of the Postal Rate Commission on proposals for changes in the Mail Classification Schedule.
a. Recommended decision of June 16, 1978, to reject a proposal to expand the availability of red tag service and institute a surcharge for expedited service. Docket No. MC76-2.
b. Recommended decision of June 19, 1978, to reject proposals to eliminate single piece third-class and expand parcel post to include pieces weighing less than 1 pound. Docket Nos. MC76-3 and -4.
c. Recommended decision of July 13, 1978, to approve a proposal allowing third-class catalogs to be mailed at fourth-class rates and to allow fourth-class bound printed matter to be mailed at third-class rates. Docket Nos. MC76-3 and -4.
(The Governors will consider the foregoing recommended decisions.)

LOUIS A. COX,
Secretary.

[S-1756-78 Filed 8-30-78; 11:22 am]

[8240-01]

13

RAILWAY ASSOCIATION.

TIME AND DATE: 2 p.m., September 7, 1978.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North SW., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS OR ITS EXECUTIVE COMMITTEE:

Portions closed to the public (2 p.m.):

1. Consideration of internal personnel matters.
2. Review of ConRail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware and Hudson railway Co. proprietary and financial information for monitoring and investment purposes.
4. Review of Missouri-Kansas-Texas Railroad Co. proprietary and financial information.
5. Litigation report.

Portions open to the public (3:30 p.m.):

6. Approval of minutes of the August 2, 1978 meeting of the Executive Committee of the Board of Directors.
7. Consideration of advances to D&H.
8. Report on ConRail monitoring.
9. Consideration of ConRail Waiver requests.
10. Consideration of ConRail drawdown request for September 1978.
11. Consideration of 211(h) loan program.
12. Proposed USRA budget submissions.
13. Contract actions (extensions and approvals).

[S-1760-78 Filed 8-30-78; 2:40 pm]

[8010-01]

14

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 4, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, September 7, 1978, at 10 a.m. Closed meetings will be held on Wednesday, September 6, 1978, at 10 a.m., and on Thursday, September 7, 1978, immediately following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams, and Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Wednesday, September 6, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or Self-Regulatory Authorities.
Chapter XI proceeding.
Formal orders of investigation.
Institution of injunctive actions.
Regulatory matter bearing enforcement implications.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, September 7, 1978, at 10 a.m. will be:

1. Consideration of an application for reentry of Morris Cohen to become associated with a registered broker-dealer, as a registered representative, in a nonsupervisory, nonproprietary capacity, with adequate supervision. For further information, please contact David P. Tennant at 202-755-7096.
2. Consideration of whether to issue a release concerning the fidelity bonding of reg-

istered management investment companies. For further information, please contact John M. Metzger at 202-755-0233.

3. Consideration of whether to issue two releases which would announce: (a) The withdrawal of a proposed amendment to Rule 146 to prevent persons who receive compensation from the issuer from also serving as offeree representative, and request comment on a proposed amendment to prevent an agent of the issuer from serving as an offeree representative; and (b) the adoption of an amendment to Rule 146 relaxing the disclosure requirements for offerings not in excess of $1,500,000. For further information, please contact Richard K. Wulff at 202-755-1240.

4. Consideration of proposals: (a) To raise the limit on the aggregate offering price of securities which may be sold pursuant to the Regulation A exemption from registration under section 3(b) of the Securities Act to $1.5 million and not require certified financial statements except from reporting companies; (b) to request public comment on whether the Regulation A ceiling should be raised to $2.5 million, if so authorized by statute and, if so, whether certified financial statements should be required for offerings between $1.5 and $2.5 million; and (c) to raise the ceiling on offerings pursuant to Rule 257 of Regulation A from $50,000 to $100,000. For further information, please contact J. Rowland Cook at 202-755-4370.

5. Consideration of proposed amendments to Form S-16 under the Securities Act expanding the availability of the form for primary offerings of securities by certain subsidiary issuers without requiring a guarantee by their parent companies, provided those issuers meet additional standards relating to: (a) Outstanding publicly held securities (b) earnings to fixed charges coverage ratios, and (c) dissemination of annual reports containing certified financial statements. For further information, please contact J. Rowland Cook at 202-755-4370.

The subject matter of the closed meeting scheduled for Thursday, September 7, 1978, immediately following the 10 a.m. open meeting, will be:

Opinion.
Adminstrative proceeding of an enforcement nature.

For further information, please contact Gary Matsko at 202-755-1133.

AUGUST 29, 1978.

[S-1758-78 Filed 8-30-78; 2:40 pm]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, procedure for predetermination of wage rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted constuction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, procedure for predetermination of wage rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be otained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original general wage determination decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

FLORIDA	FL78-1071; FL78-1072

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

California:	
CA78-5107	July 7, 1978.
Minnesota:	
MN77-2043; MN77-2044; MN77-2045; MN77-2046	May 6, 1977.
MN78-2009	Mar. 10, 1978.
MN78-2062	July 14, 1978.
Pennsylvania:	
PA78-3014	Mar. 24, 1978.
Rhode Island:	
RI78-3051	July 21, 1978.
Vermont:	
VI78-2070	Aug. 11, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Illinois:	
IL77-5038(IL78-2071)	Apr. 8, 1977
Indiana:	
IL77-2038(IL78-2071)	Do.
Michigan:	
IL77-5038(IL78-2071)	Do.
Minnesota:	
IL77-5038(IL78-2071)	Do.
New York:	
IL77-5038(IL78-2071)	Do.
Ohio:	
IL77-5038(IL78-2071)	Do.
Pennsylvania:	
IL77-5038(IL78-2071)	Do.
Wisconsin:	
IL77-5038(IL78-2071)	Do.

CANCELLATION OF GENERAL WAGE DETERMINSTION DECISIONS

None.

Signed at Washington, D.C. this 25th day of August 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Florida
DECISION NUMBER: FL78-1071
DESCRIPTION OF WORK: Heavy Construction

COUNTIES: See Below*
DATE: Date of Publication

*Counties: Citrus, Hernando, Hillsborough, Indian River, Manatee, Martin, Pasco, Pinellas, Sarasota, St. Lucie, and Sumter

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$9.95	1.05	1.05		.02
BRICKLAYERS	8.21				
CARPENTERS	5.19				
CEMENT MASONS	5.89				
ELECTRICIANS	10.80	5½%	3%	4%	.10
IRONWORKERS, Structural	10.30	.65	.50	.50	.05
LABORERS:					
Unskilled	3.92				
Pipelayers	5.40				
MILLWRIGHTS	9.23	.52	.50		.05
PAINTERS	5.00				
PILEDRIVERS	6.00				
PLUMBERS & PIPEFITTERS	10.73	.60	1.00		.08
SHEET METAL WORKERS	9.31	.85	.55	.25	.05
POWER EQUIPMENT OPERATORS:					
Backhoes	5.21				
Bulldozers	4.50				
Cranes	8.79				
Derricks	5.63				
Draglines	6.31				
Graders	4.50				
Loaders	4.00				
Mechanics	5.49				
Rollers	5.00				
Tractors	4.54				

NEW DECISION

STATE: Florida
DECISION NUMBER: FL78-1072
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTIES: See below*
DATE: Date of Publication

*Counties: Bay, Escambia, Okaloosa, Santa Rosa and Walton

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A/C & REFRIGERATION MECHANIC	$ 4.86				
BRICKLAYERS	8.00				
CARPENTERS &DRYWALL HANGERS	5.13				
CEMENT MASONS	6.00				
ELECTRICIANS	5.05				
LABORERS	3.00				
PAINTERS & DRYWALL FINISHERS	5.125				
PLUMBERS	5.80				
ROOFERS	3.90				
SHEET METAL WORKERS	4.00				
SOFT FLOOR LAYERS	4.25				
TILE SETTERS	4.50				
TRUCK DRIVERS	3.00				
POWER EQUIPMENT OPERATORS:					
Bulldozers	4.35				
Grader	4.00				
Loader	3.95				
Paver	3.50				
Roller	3.33				

MODIFICATIONS P. 1

DECISION NO. CA78-5107 - Mod. #3 (43 FR 29444 - July 7, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Sutter, Tahama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
OMIT:					
POWER EQUIPMENT OPERATORS Group 10-A (Area 2)	$12.89	1.83*	2.35	1.15	.29
ADD:					
POWER EQUIPMENT OPERATORS Group 10-A (Area 2)	13.89	1.83*	2.35	1.15	.29
CHANGE:					
Sheet Metal Workers: Alameda, Contra Costa, Napa, and Solano Counties	12.65	1.03	2.11	12%	.05

MODIFICATIONS P. 2

DECISION #MN77-2043 - Mod. #6 (42 FR 23390 - May 6, 1977)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota					
CHANGE:					
Electricians:					
Building					
Hennepin & Scott Cos; Twps. of Anoka & Fridley in Anoka County					
Contracts Over $50,000	$11.35	7%	6%	10½%	1-3/4%
Contracts Less than $50,000	9.20	7%	6%	10½%	1-3/4%
Remainder of Anoka County & Remaining Counties	11.20	5-3/4%	5-7/8%	11½%	3/8%
Residential					
Carver, Hennepin & Scott Cos; Twps. of Anoka, Fridley, Crow & Ramsey in Anoka County	7.13	.48	3%	.27	1%
Dakota, Ramsey, Washington Cos; & Remainder of Anoka County	7.35	.50	3%	.33	1/8%

DECISION #MN77-2043 (Cont'd)

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.15	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer; Drill Runner Helper; Landscape Gardener, Sod Layer & Nurseryman; Powder Monkey; Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, Wrecking & Demolition; Bit Batcherman (Stationary Plant); Bit Shoveler; Blacksmith Helper; Bottom Man (sewer, Water or Gas Trench); Bricklayer Tender; Cement Handler; Cement Coverman (Batch Trucks); Compaction Equip. Shoveler; Batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer; Curb Setter (Stone or Precast Conc.) Kettleman (Bit. or lead); Service connection maker; Power Buggy; Joing Sawer; Squeese man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man; Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Nortar Mixer; Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas Trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Inderpinning Work; Caisson Work; Other work more than 8' below level of manual work; Open Ditch Work

CLASS 5 Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker

CLASS 6 Cement Gun (1½ & over); Leadman

CLASS 7 Nozzlemen (Gunite)

CLASS 8 Brick or Block Paving Setter

CLASS 9 Bituminous Raker, Floater & Utility Man

CLASS 10 Powderman

CLASS 11 Tunnel Man (Air Pressure). Tunnel Miner

DECISION #MN77-2044 - Mod. #6
(42 FR 23395 - May 6, 1977)
Blue Earth, Fairbault, Freeborn & Mower Counties, Minnesota

CHANGE:

MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers; Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Semolition; Landscape Gardener; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason Tender.

CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Man; Compaction Equipment (Hand Operated) Concrete Mixer (1 Bag); Concrete Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (Wagon, Truck etc.); Fort Setter (Municipal Type Curb & Sidewalk); Formsetter (Pavement); Jackhammerman; Joint Saweer; Kettlemen (Bituminous or Lead); Mortar Mixers; P Paving Buster; Power Buggy; Tunnel Laborer (Atmosperic Pressure).

CLASS 3 - Form Setter (Municipal Type Curb; Sidewalk & Pavement

CLASS 4 - Bituminous Tamper; Caisson Work; Cofferdam Work

CLASS 5 - Bituminous Raker; Floater & Utility Man

CLASS 6 - Nozzleman (Gunnite)

CLASS 7 - Pipelayer (Sewer, Water & Gas)

CLASS 8 - Powderman - Tunnel Miner

DECISION #MN77-2045 - Mod. #5
(42 FR 23400 - May 6, 1977)
Olmsted County, Minnesota

CHANGE:

MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers; Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Semolition; Landscape Gardener; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Man; Compaction Equipment (Hand Operated) Concrete Mixer (1 Bag); Concrete Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (Wagon, Truck etc.); Fort Setter (Municipal Type Curb & Sidewalk); Formsetter (Pavement); Jackhammerman; Joint Saweer; Kettlemen (Bituminous or Lead); Mortar Mixers; P Paving Buster; Power Buggy; Tunnel Laborer (Atmosperic Pressure).
CLASS 3 - Form Setter (Municipal Type Curb; Sidewalk & Pavement
CLASS 4 - Bituminous Tamper; Caisson Work; Cofferdam Work
CLASS 5 - Bituminous Raker; Floater & Utility Man
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman - Tunnel Miner

DECISION #MN77-2045 - Mod. #5
(42 FR 23400 - May 6, 1977)
Olmsted County, Minnesota

CHANGE:

LABORERS:

MINN-12-LAB

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers; Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardener; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason Tender
CLASS 2 - Bituminous Shoveler; Bottom Man (sewer, Water of Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or Bag) Chain Saw Man;Compaction Equipment (Hand Operated) Concrete Mixer (1 Bag); Concrete Shoveler; Tamper & Puddler (Paving); Concrete Virbrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (Wagon, Truck, etc.); Form Setter (Municipal Type Curb & Sidewalk); Formsetter (Pavement); Jackhammerman; Joint Sawer; Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure)
CLASS 3 - Form Setter (Municipal Type curb; Sidewalk & Pavement
CLASS 4 - Bituminous Tamper; Caisson Work; Cofferdam Work
CLASS 5 - Bituminous Raker, Floater & Utility Man
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman- Tunnel Miner

DECISION #MN77-2046 - Mod. #6
(42 FR 23404 - May 6, 1977)
Benton, Sherburne & Stearns Counties, Minnesota

CHANGE:

LABORERS

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

SHERBURNE COUNTY

MINN-9-LAB

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.15	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer; Drill Runner Helper; Landscape Gardener, Sod Layer & Nurseryman; Powder Monkey; Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, Wrecking & Demolition; Bit Batcherman (Stationary Plant); Bit Shoveler; Blacksmith Helper; Bottom Man (sewer, Water or Gas Trench); Bricklayer Tender; Cement Handler; Cement Coverman (Batch Trucks); Compaction Equip. Shoveler; Batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer; Curb Setter (Stone or Precast Conc.) Kettleman (Bit. or lead); Service connection maker; Power Buggy; Joing Sawer; Squeese man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man; Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Nortar Mixer; Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas Trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Inderpinning Work; Caisson Work; Other work more than 8' below level of manual work; Open Ditch Work

CLASS 5 Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker

CLASS 6 Cement Gun (1½ & over); Leadman

CLASS 7 Nozzlemen (Gunite)

CLASS 8 Brick or Block Paving Setter

CLASS 9 Bituminous Raker, Floater & Utility Man

CLASS 10 Powderman

CLASS 11 Tunnel Man (Air Pressure). Tunnel Miner

DECISION #MN77-2046 - (Cont'd)

MINN-11-LAB

LABORERS:
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING
BENTON & STEARNS COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.15	.55	.35	.40	
CLASS 2	8.20	.55	.35	.40	
CLASS 3	8.25	.55	.35	.40	
CLASS 4	8.30	.55	.35	.40	
CLASS 5	8.40	.55	.35	.40	
CLASS 6	8.70	.55	.35	.40	
CLASS 7	8.75	.55	.35	.40	
CLASS 8	8.80	.55	.35	.40	

CLASS 1 - Bricklayer Tender; Carpenter Tender; Drill Runner Helper; Laborers-Wrecking & Demolition; Lanscape Gardner; Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers

CLASS 2 - Form setter (Municipal Type Curb & Sidewalk, Form setter (Pavement)

CLASS 3 - Bituminous Shoveler; Bottom Man (Sewer, Water Or Gas Trench); Cement coverman (Batch Trucks); Cement Handler (Bulk or Bag); Chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Wagon, Truck, etc.); Jackhammerman; Joint Sawer; Kettleman (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric pressure).

CLASS 4 - Bituminous Raker, Floater & Utility Man; Caisson Work; Cofferdam

CLASS 5 - Bituminous Tamper

CLASS 6 - (Gunnite)

CLASS 7 - Pipelayer (Sewer, Water & Gas)

CLASS 8 - Powderman; Tunnel Miner

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN78-2009 - Mod. #3 (43 FR 10221 - March 10, 1978) Carlton, Cook, Itaska, Koochiching, Lake & St. Louis Counties, Minnesota					
CHANGE:					
Electricians: Koochiching County, Itasca County, (except that section south of a line extending east & west of the south line of Grand Rapids & Trout Lake Township, Northern part of St. Louis County bounded by the South Line of Ellsburg Township extended east & west	$11.28	4%	6%	11%	1½%

MODIFICATIONS P. 10

DECISION MN78-2009 -(Cont'd)

Site Preparation, Excavation & Incidental Paving

LABORERS: Counties of Itaska and St. Louis Counties North of T-55

MINN-10-LAB

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.08	.35	.15	.25	
CLASS II	9.18	.35	.15	.25	
CLASS III	9.33	.35	.15	.25	
CLASS IV	9.38	.35	.15	.25	
CLASS V	9.43	.35	.15	.25	
CLASS VI	9.48	.35	.15	.25	
CLASS VII	9.58	.35	.15	.25	
CLASS VIII	9.68	.35	.15	.25	

CLASS I Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender; Drill runner helper; Landscape gardner; Sod layer & nurserymen Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tender; Stonemason tender

CLASS II Bituminous Shoveler; Bottom man (sewer, water or gas trench); Cement handler (bulk or bag); Chain saw man; Compaction equipment (hand operated); Concrete mixer operator (1 bag); Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator; Conduit layers (w/o wiring); Dumper (wagon, truck, etc.); Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters; Kettleman (Bituminous or lead); Mortar mixer; Power buggy; Joint drawer; tunnel Laborer (Atmospheric pressure)

CLASS III Bituminous Tamper; Cofferdam work; Caisson work

CLASS IV Drill Runner (heavy, including churndrill)

CLASS V Bituminous Raker, Floater & Utility Man; Pipelayer (sewer, water, gas); Leadman

CLASS VI Nozzleman (Gunite)

CLASS VII Powederman

CLASS VIII Tunnel Miner

DECISION #MN78-2009 -(Cont'd)

Site Preparation, Excavation & Incidental Paving

MINN-14-LAB

LABORERS: Counties of Carlton, Cook, Lake, & St. Louis - South of T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.48	.40	.45	.50	
CLASS II	8.58	.40	.45	.50	
CLASS III	8.73	.40	.45	.50	
CLASS IV	8.78	.40	.45	.50	
CLASS V	8.83	.40	.45	.50	
CLASS VI	8.88	.40	.45	.50	
CLASS VII	8.98	.40	.45	.50	
CLASS VIII	9.08	.40	.45	.50	

CLASS I - Unskilled Laborer; Laborer wrecking and demolition; Bricklayer Tender; Drill Runner Helper; Landscape Gardner; Sod Layer & Nurseryman; Pipe Handler (water, gas or cast iron) Salamander Heater & Blower Tender; Stone Mason Tender
CLASS II Bituminous Shovler; Bottom Man (sewer, water or gas trench) Cement Handler (Bulk or Bag) Cement Coverman (Batch Truck) Chain Saw Man; Compaction Equipment (Hand Operated) Concrete Mixer Operator (1 Bag Capacity); Concrete Shoveler; Tamper & Puddler (Paving); Concrete Vibrator Operator; Conduit Layer (Without Wiring) Dumper (Wagon Truck); Form Setter (Municipal Type curb and sidewalk) Form Setter (Paving) Jackhammer Man; Paving Buster; Kettleman (Bituminous or Lead); Mortar Mixer: Power Buggy Operator; Joint Sawer; Tunnel Laborer (Atmospheric Pressure)
CLASS III Bituminous Tamper; Cofferdam Work; Caisson Work
CLASS IV Drill Runner (heavy, including Churn Drill)
CLASS V Bituminous Raker, Floater & Utility Man; Pipelayer (sewer, water & gas); Leadman
CLASS VI Nozzleman
CLASS VII Powderman
CLASS VIII Tunnel Miner

DECISION #MN78-2009 - (Cont'd)

MINN-13-LAB

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Site Preparation, Excavation & Incidental Paving					
Koochiching County					
CLASS 1	$ 7.70	.35	.15		
CLASS 2	7.80	.35	.15		
CLASS 3	7.85	.35	.15		
CLASS 4	7.95	.35	.15		
CLASS 5	8.05	.35	.15		
CLASS 6	8.10	.35	.15		
CLASS 7	8.15	.35	.15		
CLASS 8	8.20	.35	.15		

CLASS 1 - Skilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas,Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason tender
CLASS 2 - Bituminous Shoveler; Bottom Man (sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag); Chain Saw Man; Compaction Equipment (Hand Operated); Concrete Mixer (1 Bag); Concrete Shoveler, Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Driver Dumper (wagon Truck, etc.); Jackhammer man; Joint Sawer; Kettleman (Bituminous or Lead); Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)
CLASS 3 - Form setters (Municipal type curb & sidewald) form setter (pavement)
CLASS 4 - Bituminous Tamper, caisson work & cofferdam
CLASS 5 - Bituminous raker, floater & utility man; Leadman
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer, (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN78-2062 - Mod. #2 (43 FR 30459 - July 14, 1978) Aitken, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Itasca, Kanabec, Koochiching, Lake, LeSueur, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Stearns, Steel, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota					
CHANGE:					
Linemen:					
Koochiching County & the Remainder of Itasca & St. Louis Counties	$11.28	4%	6%	11%	1½%
Counties of Chisago, Dakota, Ramsey, Rice & Washington; Remainder of Kanabec & Mille Lacs Cos; Anoka County (entire county except Anoka, Fridley, Grow & Ramsey Twps.) Goodhue County (Entire County-except Pine Island, Minneola, Roscoe & Zumbrota Twps.) LeSueur County (that portion east of Cleveland, Sharon, Tyrone & Washington Twps.); Shereburne Co., (that portion east of Becker & Santiago Twps. & Wabasha County (entire co.-except Elgin & Plainview Townships	11.20	5-3/4%	5-7/8%	11½%	1/8%
Counties of Benton, Blue Earth, Carver, Fairbault, Hennepin, Nicollet, Scott, Sibley, Stearns, Waseca, Wright & the Remainder of Anoka, LeSueur & Sherburne Counties	$11.35	7%	6%	10½%	1-3/4%

MINN-9-LAB

LABORERS: Counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Pine, Ramsey, Scott, Sherburne, Washington & Wright	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.15	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer; Drill Runner Helper; Landscape Gardener, Sod Layer & Surseryman; Powder Monkey; Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, Wrecking & Demolition; Bit Batcherman (Stationary Plant); Bit Shoveler; Blacksmith Helper; Bottom Man (sewer, Water or Gas Trench); Bricklayer Tender; Cement Handler; Cement Coverman (Batch Trucks); Compaction Equip. Shoveler; Batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer; Curb Setter (Stone or Precast Conc.) Kettleman (Bit. or lead); Service connection maker; Power Buggy; Joint Sawer; Sqeege man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemason tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man; Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer; Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas Trench, more than 8' below starting level of manual work); Tunnel Laborer (atmospheric pressure) Underpinning Work; Caisson Work; Other work more than 8' below level of manual work; Open Ditch Work

CLASS 5 Bituminous Tamper; Pipelayers; Sand-Cushion & Bedmaker

CLASS 6 Cement Gun (1½ & over); Leadman

CLASS 7 Nozzlemen (Gunite)

CLASS 8 Brick or Block Paving Setter

CLASS 9 Bituminous Raker, Floater & Utility Man

CLASS 10 Powderman

CLASS 11 Tunnel Man (Air Pressure) Tunnel Miner

DECISION #MN78-2062 - (Cont'd)

MINN-10-LAB

LABORERS: Counties of Itaska and St. Louis Counties North of T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.08	.35	.15	.25	
CLASS II	9.18	.35	.15	.25	
CLASS III	9.33	.35	.15	.25	
CLASS IV	9.38	.35	.15	.25	
CLASS V	9.43	.35	.15	.25	
CLASS VI	9.48	.35	.15	.25	
CLASS VII	9.58	.35	.15	.25	
CLASS VIII	9.68	.35	.15	.25	

CLASS I Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender; Drill runner helper; Landscape gardner; Sod layer & nurserymen Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tender; Stonemason tender

CLASS II Bituminous Shoveler; Bottom man (sewer, water or gas trench); Cement Handler (bulk or bag); Chain saw man; Compaction equipment (hand operated); Concrete mixer operator (1 bag); Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator; Conduit layers (w/o wiring); Dumper (wagon, truck, etc.); Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters; Kettleman (Bituminous or lead); Mortar mixer; Power buggy; Joint drawer; tunnel Laborer (Atmospheric pressure)

CLASS III Bituminous Tamper; Cofferdam work; Caisson work

CLASS IV Drill Runner (heavy, including churndrill)

CLASS V Bituminous Raker, Floater & Utility Man; Pipelayer (sewer, water, gas); Leadman

CLASS VI Nozzleman (Gunite)

CLASS VII Powederman

CLASS VIII Tunnel Miner

DECISION #MN78-2062 - (Cont'd)

MINN-11-LAB

LABORERS: COUNTIES OF BENTON, KANABEC, MILLE LACS & STEARNS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.15	.55	.35	.40	
CLASS 2	8.20	.55	.35	.40	
CLASS 3	8.25	.55	.35	.40	
CLASS 4	8.30	.55	.35	.40	
CLASS 5	8.40	.55	.35	.40	
CLASS 6	8.70	.55	.35	.40	
CLASS 7	8.75	.55	.35	.40	
CLASS 8	8.80	.55	.35	.40	

CLASS 1 - Bricklayer Tender; Carpenter Tender; Drill Runner Helper; Laborers Wrecking & Demolition; Landscape Gardner; Pipe Handler (water, Gas & Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers

CLASS 2 - Form setter (municipal Type curb & sidewalk, Form setter (Pavement)

CLASS 3 - Bituminous Shoveler; Bottom Man (sewer, Water or Gas Trench); Cement coverman (Batch Trucks); Cement Handler (Bulk or Bag); Chain Saw Man; Compaction equipment (Hand Operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator' Conduit Layers (w/o wiring); Drill Runner (Wagon, Truck, etc.); Jackhammerman; Joint Sawer; Kettleman Bituminous or Lead; Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric pressure)

CLASS 4 - Bituminous Raker, Floater & Utility Man; Caisson work; cofferdam

CLASS 5 - Bituminous Tamper

CLASS 6 - Nozzleman (Gunnite)

CLASS 7 - Pipelayer (Sewer, Water & Gas)

CLASS 8 - Powderman; Tunnel Miner

DECISION #MN78-2062 - (Cont'd)

MINN-12-LAB

LABORERS: Counties of Blue Earth, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Nicholett, Olmsted, Rice, Steele, Wabasha, Waseca & Winona	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers; Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardener; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason Tender
CLASS 2 - Bituminous Shoveler; Bottom Man (sewer, Water of Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or Bag) Chain Saw Man;Compaction Equipment (Hand Operated) Concrete Mixer (1 Bag); Concrete Shoveler; Tamper & Puddler (Paving); Concrete Virbrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (Wagon, Truck, etc.); Form Setter (Municipal Type Curb & Sidewalk); Formsetter (Pavement); Jackhammerman; Joint Sawer; Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure)
CLASS 3 - Form Setter (Municipal Type curb; Sidewalk & Pavement
CLASS 4 - Bituminous Tamper; Caisson Work; Cofferdam Work
CLASS 5 - Bituminous Raker, Floater & Utility Man
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman- Tunnel Miner

DECISION MN78-2062 - (Cont'd)

MINN-13-LAB

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Aitkin, Koochiching, Morrison & Sibley					
CLASS 1	$ 7.70	.35	.15		
CLASS 2	7.80	.35	.15		
CLASS 3	7.85	.35	.15		
CLASS 4	7.95	.35	.15		
CLASS 5	8.05	.35	.15		
CLASS 6	8.10	.35	.15		
CLASS 7	8.15	.35	.15		
CLASS 8	8.20	.35	.15		

CLASS 1 - Skilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas,Cast Iron); Salamander Heater & Blower Tender; Sod Layer & Nurseryman; Stonemason tender
CLASS 2 - Bituminous Shoveler; Bottom Man (sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag); Chain Saw Man; Compaction Equipment (Hand Operated); Concrete Mixer (1 Bag); Concrete Shoveler, Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Driver Dumper (wagon Truck, etc.); Jackhammer man; Joint Sawer; Kettleman (Bituminous or Lead); Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)
CLASS 3 - Form setters (Municipal type curb & sidewald) form setter (pavement)
CLASS 4 - Bituminous Tamper, caisson work & cofferdam
CLASS 5 - Bituminous raker, floater & utility man; Leadman
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer, (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

DECISION MN78-2062 - (Cont'd)

MINN-1l4-LAB

LABORERS: Counties of Carlton, Cook, Lake, & St. Louis - South of T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.48	.40	.45	.50	
CLASS II	8.58	.40	.45	.50	
CLASS III	8.73	.40	.45	.50	
CLASS IV	8.78	.40	.45	.50	
CLASS V	8.83	.40	.45	.50	
CLASS VI	8.88	.40	.45	.50	
CLASS VII	8.98	.40	.45	.50	
CLASS VIII	9.08	.40	.45	.50	

CLASS I - Unskilled Laborer; Laborer wrecking and demolition; Bricklayer Tender; Drill Runner Helper; Landscape Gardner; Sod Layer & Nurseryman; Pipe Handler (water, gas or cast iron) Salamander Heater & Blower Tender; Stone Mason Tender
CLASS II Bituminous Shovler; Bottom Man (sewer, water or gas trench) Cement Handler (Bulk or Bag) Cement Coverman (Batch Truck) Chain Saw Man; Compaction Equipment (Hand Operated) Concrete Mixer Operator (1 Bag Capacity); Concrete Shoveler; Tamper & Puddler (Paving); Concrete Vibrator Operator; Conduit Layer (Without Wiring) Dumper (Wagon Truck); Form Setter (Municipal Type curb and sidewalk) Form Setter (Paving) Jackhammer Man; Paving Buster; Kettleman (Bituminous or Lead); Mortar Mixer: Power Buggy Operator; Joint Sawer; Tunnel Laborer (Atmospheric Pressure)
CLASS III Bituminous Tamper; Cofferdam Work; Caisson Work
CLASS IV Drill Runner (heavy, including Churn Drill)
CLASS V Bituminous Raker, Floater & Utility Man; Pipelayer (sewer, water & gas); Leadman
CLASS VI Nozzleman
CLASS VII Powderman
CLASS VIII Tunnel Miner

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA78-3014 - Mod. # 3 (43 FR 12603 - March 24, 1978) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania					
Change:					
Carpenters Zone 1	$11.15	6%	8%	6%	.4%
Millwrights	10.26	6%	6%	25%	.5%
Piledrivermen	11.85	5.5%	10%		.5%
DECISION NO. RI78-3051 - MOD. #1 (43 FR 31555 - July 21, 1978) Newport County, Rhode Island					
Omit:					
Electricians: Residential up to and including 3 stories	$ 7.40	.38	3%		.02
DECISION NO. VT78-2070- Mod #1 (43 FR 35887- August 11, 1978) Chittenden, Franklin, Grand Isle, Addison, & Orleans Counties, Vermont					
Change:					
Addison County: Compactor	$7.20				

SUPERSEDEAS DECISION

STATE: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin

DECISION NUMBER: IL78-2071

Supersedes Decision No. IL77-5038 dated April 8, 1977 in 42 FR 18802

DESCRIPTION OF WORK: Dredging on the Great Lakes, their connecting and tributory waters, including the Illinois Waterway to the lock at Lockport, Illinois; and in the New York State Barge Canal System between Tonawanda, New York, and Waterford, New York, and Oswego, New York and on the St. Lawrence River eastward to the International Boundary near St. Regis, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dipper and Hydraulic Dredging:					
Chief Engineer	$14.42	.63	.50	a	
Operators	14.31	.63	.50	a	
Assistant Engineer	13.82	.63	.50	a	
Welder	13.71	.63	.50	a	
Cranemen - Dipper Dredging	13.71	.63	.50	a	
Spill Barge Operator - Hydraulic Dredging	13.71	.63	.50	a	
Drill Boats:					
Engineers	10.57	.63	.50	c	
Blasters	10.71	.63	.50	c	
Firemen	10.17	.63	.50	c	
Drillers, Welders or Machinists	10.58	.63	.50	c	
Oilers	9.96	.63	.50	c	
Tug Engineers	12.89		.70	a	
Tug Operators - on Launch	12.52		.70	a	
Floating Equipment: (Clamshell, Dragline and Marine Construction)					
Engineers and Operators	14.40	f		d&e	
Equipment Operators	12.90	f		d&e	
Firemen	12.15	f		d&e	
Oilers	10.70	f		d&e	
Tug Workers:					
Firemen, Linesmen, Oilers, Deckhands, Scowmen (on/or with tugboats, launches or other selfpropelled boats)	11.60	b	.75	.75+d	
Dredge Workers:					
Firemen, Oiler, Deckhands and Scowmen (with dipper dredges, hydraulic dredges or other floating equipment engaged in dredging operations); Pipeline men (both afloat and ashore, including loading, unloading, installing, maintaining and handling pipe lines for hydraulic dredges and sandboats	11.60	b	.75	.75+d	
Range and Sweepmen, Service Truck Drivers	8.81	b	.75	.75+d	

FOOTNOTES:

a. 8 paid holidays: A through F plus Washington's Birthday and Veterans' Day; 6½ days vacation with pay for 104 days of service, one additional day of vacation with pay for each of the next 3 periods of 26 days of service, and for 208 days or over of service 13 days of vacation with pay, all in one calendar year. Employees not qualifying for vacation, as set forth above, will receive one day's vacation with pay for each full 24 days of service in one calendar year.

b. $5.00 per day, per employee.

c. 8 paid holidays: A through F plus Washington's Birthday and Veterans' Day; 6½ days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation, as set forth above, are to receive one day's vacation with pay for each full 20 days of service in one calendar year.

d. 8 paid holidays: A through F plus Washington's Birthday and Veterans' Day.

e. ½ day vacation for each full 10 days employment in one calendar year.

f. $2.25 per hour in fringe benefits (excluding vacation payments).

PAID HOLIDAYS (Where Applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

[FR Doc. 78-24412 Filed 8-31-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office for Civil Rights

■

PROPOSED ANNUAL OPERATION PLAN

Fiscal Year 1979

[4110-12]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office for Civil Rights

PROPOSED ANNUAL OPERATION PLAN

Fiscal Year 1979

The following tables set forth the compliance and enforcement activities that the Office for Civil Rights (OCR) proposes to conduct in fiscal year 1979. The proposed plan is based on the following assuptions:

(1) In fiscal year 1979 OCR will have the following numbers of investigators hired and trained for compliance work:

October 1—373 investigators (the current OCR staff less 70 investigators transferred to the Department of Labor).
January 1—569 investigators.
April 1—790 investigators.

Because the new staff will not be fully productive during their first year on the job, this staff will provide OCR with 568.9 person years of investigator time for carrying out the activities set forth in the plan.

(2) In fiscal year 1979 OCR investigators will resolve investigated complaints at the rate of 12 complaints per investigator per year, more than twice the rate projected in the fiscal year 1978 plan.

Any shortfall in either of these two assumptions would limit OCR's ability to carry out the proposed plan. The hiring of the new staff depends on OCR receiving hiring authorization, and is in large part beyond OCR's control. OCR is confident that its experienced investigators will exceed the rate of 12 investigated complaints for the year as a whole. The rate at which newly employed investigators can complete complaints will depend on how soon they can gain the experience needed for this level of proficiency. OCR is maintaining the rate of 12 investigated complaints per investigator in this plan as an incentive to its staff. If the hiring of new staff is delayed, the completion rate in fiscal year 1979 could be as low as 9 or 10 investigated complaints per investigator.

In developing the plan, OCR has given its first priority to the resolution of complaints. OCR projects that fiscal year 1979 complaint receipts will be 5,768, an increase of 1,420 from the 4,348 complaints projected for fiscal year 1978. OCR expects to carry over into fiscal year 1980, 2,297 unresolved complaints. Of these, 976 will be complaints received too late in the year for OCR to complete by the end of the year. The cause of the remaining 1,321 carryovers will be lack of staff to complete the investigations. OCR expects that with the increase in its staff in fiscal year 1979, it will be able to become current in its complaint processing early in fiscal year 1980. Detailed summaries of OCR's complaint activities appear in tables 1-2.

The investigator time assigned to compliance reviews in fiscal year 1979, 191.9 person years, is 24.1 person years less than fiscal year 1978 because of the transfer of staff with Executive Order 11246 responsibilities to the Department of Labor on October 1. (The fiscal year 1978 plan assigned 24.5 person years to Executive Order reviews.) The reviews which OCR will conduct in fiscal year 1979 are dictated by:

The requirements of the order issued in the case of *Adams* v. *Califano* on December 29, 1977;

Other mandates on OCR, such as the requirement for reviewing applications for Federal financial assistance (primarily ESAA grants);

OCR's goal of achieving balance in its compliance program.

Details on the specific reviews which OCR will conduct appear in table 3. Region by region tables are not included in the published plan but are available from OCR on request.

OCR solicits comments from the public on this proposed annual operating plan. Comments should be addressed to the Director, Office for Civil Rights, Department of Health, Education and Welfare, Room 5400, 330 Independence Avenue SW., Washington, D.C. 20201, and should be received no later than September 30, 1978. OCR will review the proposed plan in the light of the comments it receives, and so far as it is able to do so, it will revise the plan to reflect suggestions that have merit. OCR will issue its final annual operating plan for fiscal year 1979 before December 30, 1978.

Dated: August 18, 1978.

CYNTHIA G. BROWN,
Acting Director,
Office for Civil Rights.

OFFICE FOR CIVIL RIGHTS

FY 1979 ANNUAL OPERATING PLAN

TABLE 1

COMPLAINT RECEIPTS

	National
Projected FY 1979 Complaint Receipts	5768
FY 1979 Receipts Projected To Be Closed Without Investigation.	2514
Complaints Held For Investigation. (See Table 3, Investigated Complaints)	3254

OCR will close complaints without an investigation for one or more of the following reasons -

1. OCR has no jurisdiction over the alleged discrimination.
2. OCR has no jurisdiction over the subject matter of the complaint.
3. The complaint is filed too late.
4. The complaint is incomplete and not completed within 110 days.
5. The complaint is being, or will be investigated by another compliance agency.
6. The complainant cannot be located, or refuses to cooperate or withdraws the complaint.
7. The complaint is on its face without merit.

Region NATIONAL CHART August 18, 1978

OFFICE FOR CIVIL RIGHTS

FY 1979 ANNUAL OPERATING PLAN

TABLE 2

INVESTIGATED COMPLAINTS

	RACE	NATIONAL ORIGIN	SEX	HANDICAP	TOTAL
ELEM. & SEC.					
On Hand 10/1/78	784	148	522	380	1834
Receipts FY 1979	891	158	527	402	1978
Total Workload	1675	306	1049	782	3812
Closures FY 1979	1172	208	750	565	2695
Carry Forward To FY 80	503	98	299	217	1117
Person Years	97.6	17.3	62.5	47.1	224.5
POST-SECONDARY					
On Hand 10/1/78	353	180	367	310	1210
Receipts FY 1979	259	128	367	310	1210
Total Workload	612	308	607	509	2036
Closures FY 1979	393	203	382	306	1284
Carry Forward To FY 80	219	105	225	203	752
Person Years	32.75	16.92	31.83	25.5	107
HEALTH/HUMAN DEVELOPMENT					
On Hand 10/1/78	250	100	0	176	526
Receipts FY 1979	210	86	0	154	450
Total Workload	460	186	0	330	976
Closures FY 1979	259	99	0	190	548
Carry Forward To FY 80	201	87	0	140	428
Person Years	21.5	8.3	0	15.8	45.6
ALL PROGRAMS					
On Hand 10/1/78	1387	428	889	866	3570
Receipts FY 1979	1360	372	767	755	3254
Total Workload	2747	800	1656	1621	6824
Closures FY 1979	1824	510	1132	1061	4527
Carry Forward To FY 80	923	290	524	560	2297
Person Years	151.85	42.5	94.33	88.4	377.1

Table 3

NATIONAL TOTALS

OFFICE FOR CIVIL RIGHTS

PLANNED COMPLIANCE REVIEW ACTIVITY - FY '1979

TYPE OF REVIEW	NUMBER	PERSON YEARS	TYPE OF REVIEW	NUMBER	PERSON YEARS	TYPE OF REVIEW	NUMBER	PERSON YEARS
1. Emergency School Aid Act Reviews (Title VI)	644	45.08	11. New Reviews of Elementary & Secondary Districts in the N & W (Brown) (Title VI Section 504; Title IX)	2	6.00	18. Public Assistance/ Social Services Reviews (Title XX) (Title VI; Section 504)	1	2.00
2. Health Agency and Program Pre-grant Reviews (Title VI)	1,395	6.99	12. Medicaid/Medicare Reviews (Title VI; Section 504)	2	4.48	19. Child Welfare Services Reviews (Title VI; Section 504)	3	2.19
3. Monitoring Adams' State Higher Education Systems (Title VI)	10	10.50	12a. Hospital Reviews (Title VI; Section 504)	8	1.68	20. Vocational Rehabilitation Services Reviews (Title VI; Section 504)	2	2.08
4. Formerly Dual State Higher Education Systems Reviews (Title VI)	5	11.00	12b. Nursing Home Reviews (Title VI; Section 504)	8	.80	21. Compliance Plan Monitoring (Title VI, Section 504; Title IX)	57	5.70
5. Elementary and Secondary School District Language Program (Lau) Reviews (Title VI)	45	9.45	12c. Neighborhood Health Center Reviews (Title VI; Section 504)	2	.16	22. Public Higher Education Central Administrative Unit Reviews (Title VI; Section 504, Title IX)	2	1.32
6. Equal Educational Services Reviews of Major City School Systems (Title VI; Section 504; Title IX)	4	12.00	13. Public Health Care Reviews (Title VI; Section 504)	4	8.00	23. Special Section 504 Reviews (Section 504)	43	9.10
7. Area Vocational/Technical School Reviews (Title VI; Section 504; Title IX)	10	10.80	14. Health Planning Reviews (Title VI; Section 504)	2	1.30	24. Special Title IX Reviews (Title IX)	83	15.23
8. Special Purpose State Administered School Reviews (Title VI; Section 504; Title IX)	15	9.60	15. Mental Health Services Reviews (Title VI; Section 504)	3	2.00			
9. FY '78 AOP Carryover Reviews (Title VI; Section 504; Title IX)	3	.75	16. Mental Retardation Services Reviews (Title VI; Section 504)	5	4.15			
10. FY '78 AOP Negotiation and Enforcement Carryover (Title VI; Section 504; (Title IX)		8.57	17. Drug Abuse/Alcoholism Services Reviews (Title VI; Section 504)	2	.94	Totals	2,360	191.87

[FR Doc. 78-24381 Filed 8-31-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

■

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Applications and Other Forms

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Applications and Other Forms

AGENCY: Social Security Administration, HEW.

ACTION: Proposed rulemaking.

SUMMARY: The Department of Health, Education, and Welfare is planning to revise its regulations to make them clearer and easier for the public to use. As part of this effort, we are proposing a complete revision of this subpart G which contains the rules for filing an application for old-age, survivors', dependents', or disability benefits and for hospital insurance benefits. The rules have been completely reorganized and rewritten in simpler, briefer language.

DATES: Your comments will be considered if we receive them no later than October 31, 1978.

ADDRESSES: Send your written comments to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

James MacDonald, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-5298.

SUPPLEMENTARY INFORMATION: The Social Security Administration is planning to completely revise all its regulations to make them easier to read and more helpful to the public. This revision of subpart G is the second regulation to be rewritten. Notices concerning other regulations we propose to rewrite will be published in the FEDERAL REGISTER to give the public an opportunity to participate in their development.

This subpart is important because it is by filing an application that an individual makes a claim for social security benefits and hospital insurance benefits. Filing an application permits a decision to be made on a person's entitlement to benefits and protects the right to appeal if he or she is not satisfied with the decision.

This subpart does not include requirements concerning applications for black lung benefits, supplemental security income payments, or for a social security number. These rules are contained in part 410, part 416, and part 422, respectively. Later on, when our regulation rewriting effort has progressed further, we will consider whether combining these rules into one regulation would be helpful to the public.

In rewriting the regulation, we propose to clarify § 404.613 which relates to when a written statement is considered to be the filing of an application. The present wording of this provision has led to some confusion as to whether a written statement (such as a letter) indicating the writer's intention to claim benefits is itself an "application." We have restated the rule in proposed § 404.630 to make it clear that, in a case where other requirements of this provision are also met, a written statement can be used to establish a filing date to protect against a loss of entitlement to benefits, but that the written statement itself is not an "application" as defined by the regulations. An application form prescribed for this purpose by the Social Security Administration must always be filed.

In addition, the rewritten regulations reflect the change made by section 332 of the Social Security Amendments of 1977 which limits, with certain exceptions, the retroactivity of applications for reduced benefits. This amendment to the Social Security Act applies to applications filed on or after January 1, 1978, and is being implemented by the Social Security Administration. The proposed § 404.621(a) reflects the policy which SSA is following in applying that provision. Although the proposed section reflects current policy, it is being published with Notice of Proposed Rulemaking as part of this recodification effort. We would like to have comments from the public about the new provision limiting the retroactivity of certain applications as well as comments concerning the other rules on applications and our proposal to rewrite them so they are clearer and easier to use.

Also, we are deleting provisions in this subpart that are outdated or little used or that are contained or belong in other subparts of the regulations. Specifically, we plan to remove § 404.610 which concerns the execution of requests and notices. The provisions of this section which concern a request for a recomputation of a person's primary insurance

amount are contained in § 404.246; the provisions which concern a request for a revision of a person's record of earnings are contained in § 404.810; the provisions which concern the withdrawal of an application and the cancellation of a request for withdrawal are contained in our proposed §§ 404.640 and 404.641. The remaining provisions of the current § 404.610, which concern a request for a determination or a decision relating to a person's entitlement to monthly benefits, a period of disability, or a lump-sum death payment and any notice provided for by the regulations, will be reflected in the appropriate subparts as part of the recodification process.

We also plan to remove § 404.612 concerning extension of filing periods by the Soldiers' and Sailors' Civil Relief Act of 1940. The part of this section which concerns filing an application for a lump-sum death payment is reflected in proposed § 404.621(b)(2). The part of this section which concerns the filing of proof of support in connection with an application for parent's benefits will be included in the recodified subpart D on benefits. The provisions which concern the filing of a request for a revision of a person's record of earnings and for filing of a request for administrative review will be reflected in the appropriate subparts as part of the recodification process. The provisions of the section which concern the filing of proof of support in connection with an application for husband's and widower's benefits are deleted because proof of support is no longer a condition of entitlement to these benefits.

The part of §§ 404.616 and 404.617 which concerns the filing of an application for a lump-sum death payment more than 2 years after the death of the insured, is reflected in proposed § 404.621(b). That part of §§ 404.616 and 404.617 which concerns the filing of proof of support in connection with an application for parent's benefits will be included in the recodified subpart D on benefits.

Section 404.619 is being deleted because it is a little used provision. This section provides for treating a missing-in-action report filed with us by a military service department as a written statement.

Section 404.607a concerning the filing of an application for the establishment of a period of disability, was deleted from the regulations effective December 29, 1977. See 42 FR 64887, December 29, 1977. The current rules governing an application for a period of disability are contained in proposed §§ 404.620 and 404.621 (d) and (e).

(Catalog of Federal Domestic Assistance Program Nos. 13.803 Social Security-Retirement Insurance; 13.804 Social Security Special Benefits for Persons Aged 72 and Over; 13.805 Social Security-Survivors' Insurance)

Dated: June 28, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: August 14, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Subpart G of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart G—Filing of Applications

GENERAL PROVISIONS

Sec.
404.601 Introduction.
404.602 Definitions.
404.603 You must file an application to receive benefits.

APPLICATIONS

404.610 What makes an application a claim for benefits.
404.611 Filing of application with Social Security Administration.
404.612 Who may sign an application.
404.613 Evidence of authority to sign an application for another.
404.614 When an application is considered filed.
404.615 Claimant must be alive when an application is filed.

EFFECTIVE FILING PERIOD OF APPLICATION

404.620 Filing before the first month you meet the requirements for benefits.
404.621 Filing after the first month you meet the requirements for benefits.
404.622 Limiting an application.
404.623 Filing by persons eligible for old-age and husband's or wife's benefits.

FILING DATE BASED ON WRITTEN STATEMENT

404.630 Use of date of written statement as filing date.
404.631 Statements filed with the Railroad Retirement Board.
404.632 Statements filed with a hospital.

WITHDRAWAL OF APPLICATION

404.640 Withdrawal of an application.
404.641 Cancellation of a request to withdraw.

AUTHORITY: Secs. 205 and 1102 of the Social Security Act, 53 Stat. 1368, and 49 Stat. 647; sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631 (42 U.S.C. 405 and 1302 and 5 U.S.C. Appendix).

Subpart G—Filing of Applications

GENERAL PROVISIONS

§ 404.601 Introduction.

This subpart contains the Social Security Administration's basic rules for filing a claim for old-age, disability, dependents', and survivors' insurance benefits as described in subpart D of this part 404 and for entitlement to hospital insurance benefits as described in 42 CFR part 405. It tells what an application is, who may sign it, where and when it must be signed and filed, the period of time it is in effect and how it may be withdrawn. Requirements concerning applications for the black lung benefits program are contained in part 410. Requirements concerning applications for the supplemental security income program are contained in part

416. Part 422 contains the requirements for applying for a social security number.

§ 404.602 Definitions.

For the purpose of this subpart—

"Applicant" means the person who files an application for benefits for himself or herself or for someone else. A person who files for himself or herself is both the "applicant" and the "claimant."

"Application" refers only to an application on a form described in § 404.611 and includes an application for benefits and entitlement to hospital insurance.

"Benefits" means any old-age, disability, dependents', and survivors' insurance benefits described in subpart D, including a period of disability.

"Claimant" means the person who files an application for benefits for himself or herself or the person for whom an application is filed.

"We" or "us" means the Social Security Administration.

"You" or "your" means, as appropriate, the person who applies for benefits, the person for whom an application is filed, or the person who may consider applying for benefits.

§ 404.603 You must file an application to receive benefits.

In addition to meeting other requirements, you must file an application to become entitled to benefits. If you believe you may be entitled to benefits, you should file an application. Filing an application will—

(a) Permit a formal decision to be made on your entitlement to benefits;

(b) Protect your entitlement to any benefits that may be payable for as many as 12 months before the application was filed; and

(c) Give you the right to appeal if you are dissatisfied with the decision.

APPLICATIONS

§ 404.610 What makes an application a claim for benefits.

To be considered a claim for benefits, an application must generally meet all of the following conditions:

(a) It must be on an application form as described in § 404.611.

(b) It must be completed and filed with the Social Security Administration.

(c) It must be signed by the claimant or someone who may sign an application for the claimant.

(d) The claimant, with the limited exceptions in § 404.615, must be alive at the time it is filed.

§ 404.611 Filing of application with Social Security Administration.

(a) *General rule.* You must apply for benefits on one of our application forms. See part 422 for a list of appropriate application forms.

(b) *Effect of claims filed with the Railroad Retirement Board.* An application filed with the Railroad Retirement Board on one of its forms is also considered an application for social security benefits if the application is filed—

(1) By or for a claimant who has less than 10 years of service in the railroad industry;

(2) By or for a claimant who has 10 or more years of service in the railroad industry and the applicant does not limit the application to benefits payable only under the Railroad Retirement Act; or

(3) By the spouse or by or for the child of a claimant who has worked any length of time in the railroad industry and the applicant does not limit the application to benefits payable only under the Railroad Retirement Act.

(c) *Effect of claims filed with the Veterans Administration.* An application filed with the Veterans Administration on one of its forms for survivors' dependency and indemnity compensation (see section 3005 of title 38, United States Code) is also considered an application for social security dependents' and survivors' benefits except the lump-sum death payment.

§ 404.612 Who may sign an application.

We will determine who may sign an application according to the following rules:

(a) A claimant who is 18 years old or over, mentally competent, and physically able to do so, must sign his or her own application. If the claim is for child's benefits for a person who is not yet 22 years old, the application may be signed by a parent or a person standing in place of the parent.

(b) If the claimant is under age 18, or mentally incompetent, or physically unable to sign, the application may be signed by a court appointed representative or a person who is responsible for the care of the claimant, including a relative or, if the claimant is in the care of an institution, the manager or principal officer of the institution.

(c) If a person who could receive disability benefits or who could have a period of disability established dies before filing, an application for disability benefits or for a period of disability may be signed by a person who would be qualified to receive any underpayment of benefits.

(d) If a person who would be equitably entitled to receive a lump-sum death payment dies before filing, an application for the lump-sum

death payment may be signed by a person who could receive the payment for the deceased's estate.

(e) If a written statement showing an intent to claim benefits is filed with us, but the person for whom the benefits are claimed dies before an application is filed, an application may be filed as explained in § 404.630(d).

(f) If it is necessary to protect a claimant from losing benefits and there is a valid reason for the claimant not being able to sign the application, we may accept an application signed by someone other than a person described in this section.

§ 404.613 Evidence of authority to sign an application for another.

A person who applies for someone else will be required to file a statement indicating his or her relationship to the claimant and, except for the parent of a child who lives with the child, either the extent to which the applicant is responsible for the care of the claimant, or the person's position as the manager or principal officer of an institution which is responsible for the care of the claimant. A court appointed representative will be required to submit a certificate issued by the court showing his or her authority to act for the claimant. We may, at any time, require additional evidence to establish the authority of a person to sign an application for someone else.

§ 404.614 When an application is considered filed.

(a) *General rule.* An application for benefits is filed on the day it is received by an employee at one of our offices, or by one of our employees who is authorized to receive applications at a place other than one of our offices.

(b) *Other places and dates of filing.* We will also accept as the date of filing—

(1) The date an application for benefits is filed with the Railroad Retirement Board or the Veterans Administration. See § 404.611 (b) and (c) for an explanation of when an application for benefits filed with the Railroad Retirement Board or the Veterans Administration is considered an application for social security benefits;

(2) The date an application for social security benefits is received by any U.S. Foreign Service Officer or by the Veterans Administration Regional Office in the Philippines; or

(3) If using the date we receive an application from an applicant would result in a loss of benefits, we will use the date the application was mailed to us as shown by a U.S. postmark. If the postmark is unreadable or there is no postmark, we will consider other evidence of when it was mailed.

§ 404.615 Claimant must be alive when an application is filed.

A claimant must be alive at the time an application is filed. There are the following exceptions to this general rule:

(a) If a disabled person dies before filing an application for disability benefits or a period of disability, a person who would be qualified to receive any underpayment of benefits may file an application within 3 months after the month in which the disabled person died.

(b) If a person who would be equitably entitled to receive the lump-sum death payment dies before filing an application for the payment, the application may be filed by a person acting for the claimant's estate.

(c) If a written statement showing an intent to claim benefits is filed with us, but the person for whom the benefits are claimed dies before an application is filed, an application may be filed as explained in § 404.630(d).

EFFECTIVE FILING PERIOD OF APPLICATION

§ 404.620 Filing before the first month you meet the requirements for benefits.

(a) *General rule.* If you file an application for benefits (except special age 72 payments) before meeting all the requirements for entitlement, the claim will be denied unless all the requirements are met before a final decision is made on the application. If the requirements are met before that decision, we will treat your application as though it was filed in the month you first met all the requirements of entitlement.

(b) *Filing for special age 72 payments.* The requirements for entitlement to special age 72 payments must be met no later than 3 months after the month an application is filed.

§ 404.621 Filing after the first month you meet the requirements for benefits.

(a) *Filing for disability benefits and for old-age, survivors' or dependents' benefits.* If you file an application for disability benefits, or for old-age, survivors', or dependents' benefits, after the first month you could have been entitled to them, you may receive benefits for as many as 12 months immediately before the month in which your application is filed. Your benefits may begin with the first month in this 12-month period in which you meet all the conditions of entitlement. This rule is followed except where you apply for old-age, survivors', or dependents' benefits and the effect of the payment of benefits for a month before the month you file would be to reduce your benefits because of your age. See § 404.410 for an explanation of a reduction in benefits for age.

If the payment of benefits for a month before the month you file would result in your benefits being reduced for age, no entitlement for that month may be established. The limitation on your entitlement to benefits for months before your application is filed will not apply if—

(1) You are applying for retirement benefits and there are one or more persons who would be entitled to benefits as a dependent on your earnings record for past months and these benefits are not subject to reduction;

(2) You have excess earnings in the year the application is filed and the excess earnings could be charged to months prior to the month of application. In that event, the limitations will not apply to the number of months prior to filing the application which are required to charge the excess earnings. See § 404.430 for the definition of "excess earnings" and § 404.434 for an explanation of the months to which excess earnings are charged; or

(3) You are a widow, widower, or surviving divorced wife who is under a disability and could be entitled to retroactive benefits for any month before age 60. If you could not be entitled before age 60, the limitation will prevent payment of benefits to you for past months, but it will not affect the month you become entitled to hospital insurance benefits.

(b) *Filing for lump-sum death payment.* An application for a lump-sum death payment must be filed within 2 years after the death of the person on whose earnings record the claim is filed. There are two exceptions to the 2-year filing requirement:

(1) If there is a good cause for failure to file within the 2-year period, we will consider your application as though it were filed within the 2-year period. Good cause does not exist if you were informed of the need to file an application within the 2-year period and you neglected to do so or did not desire to make a claim. Good cause will be found to exist if you did not file within the time limit due to—

(i) Circumstances beyond your control, such as extended illness, mental or physical incapacity, or a language barrier;

(ii) Incorrect or incomplete information we furnished you;

(iii) Your efforts to get evidence to support you claim without realizing that you could submit the evidence after filing an application; or

(iv) Unusual or unavoidable circumstances which show that you could not reasonably be expected to know of the time limit.

(2) The Soldiers' and Sailors' Civil Relief Act of 1940 provides for extending the filing time.

(c) *Filing for special age 72 payments.* An application for special age 72 payments is not effective as a claim for benefits for any month before you actually file.

(d) *Filing for a period of disability.* You must file an application for a period of disability while you are under a disability or no later than 12 months after the month in which your period of disability ended. A period of disability ends on the last day of the month preceding the month in which you become 65 years old or, if earlier, the last day of the second month following the month in which your disability ended. If you were physically or mentally unable to file an application within this time limitation, you may file an application not more than 36 months after your disability ended.

(e) *Filing after death of person eligible for disability benefits or period of disability.* If you file for disability benefits or a period of disability for another person who died before filing an application and you would qualify under § 404.503(b) to receive any underpayment of benefits, you must file an application no later than the end of the third month following the month in which the disabled individual died.

§ 404.622 Limiting an application.

Your application may entitle you to benefits for as many as 12 months before the month in which it is filed. See § 404.621(a). You may limit the number of months of your entitlement in the 12-month period. You may state this choice any time before a decision is made on your claim by indicating, in writing, the month you want your benefits to begin. You may change the first month of entitlement after a decision has been made on your claim if—

(a) You file the request in writing;

(b) If you are filing for the claimant, he or she is alive when the request is filed;

(c) If any other person who is entitled to benefits would lose some or all of those benefits because of the change, that person, or the person who filed for him or her, consents in writing; and

(d) Any benefit payments that would become improper as a result of the change in entitlement month are repaid, or we are satisfied that they will be repaid.

§ 404.623 Filing by person eligible for old-age and husband's or wife's benefits.

(a) *Old-age benefits.* If you file an application for old-age benefits before you become 65 years old and you are also eligible for either a husband's or wife's benefit for the first month of your entitlement to old-age benefits, you are presumed to have filed for husband's or wife's benefit in that month.

(b) *Husband's or wife's benefits.* If you file an application for a husband's or wife's benefit

before you become 65 years old and you are also eligible for old-age benefits for the first month of your entitlement to husband's or wife's benefits, you are presumed to have filed for old-age benefits in that month, unless you are also entitled to disability benefits in that first month. In that event, you are presumed to have filed for old-age benefits only if your disability benefits end before you become 65 years old.

FILING DATE BASED ON WRITTEN STATEMENT

§ 404.630 Use of date of written statement as filing date.

Under certain circumstances, we will use the date a written statement was filed with us as the filing date of an application for benefits. The filing date of a written statement is determined by the rules in § 404.614(a) and (b)(3) that apply to applications. The filing date of a written statement will be used as the filing date of the application, if all the following requirements are met:

(a) The written statement indicates an intent to claim benefits for yourself or for another person.

(b) The statement is signed by the claimant, the claimant's spouse, or a person described in § 404.612. If you telephone us and advise us that you intend to file a claim but cannot file an application before the end of the month, we will prepare and sign a written statement if it is necessary to prevent the loss of benefits.

(c) The claimant files an application with us or one is filed for the claimant by a person described in § 404.612, within 6 months after the date of a notice we will send advising of the need to file an application.

(d) The claimant is alive when the application is filed; or if the claimant has died after the written statement was filed, an application is filed—

(1) By or for a person who would be eligible to receive benefits on the deceased's earnings record;

(2) By a person acting for the deceased's estate; or

(3) If the statement was filed with a hospital under § 404.632, by the hospital if—

(i) No person described in subparagraph (1) or (2) of this paragraph can be located; or

(ii) A person described in subparagraph (1) or (2) of this paragraph is located but refuses or fails to file the application unless the refusal or failure to file is because it would be harmful to the deceased individual or the deceased's estate.

§ 404.631 Statements filed with the Railroad Retirement Board.

A written statement filed with the Railroad Retirement Board will be considered a written statement filed with us under the rules in § 404.630 if—

(a) The statement indicates an intent to claim any payments under the Railroad Retirement Act;

(b) It bears the signature of the person filing the statement;

(c) No application is filed with the Railroad Retirement Board on one of its forms. If an application has been filed, we will use the date of filing of that application as determined by the Railroad Retirement Board (see § 404.614(b)(2)); and

(d) The statement is sent to us by the Railroad Retirement Board.

§ 404.632 Statements filed with a hospital.

Under certain circumstances a statement (generally a hospital admission form) filed with a hospital may serve as a written statement in accordance with § 404.630. The statement will be considered filed with us as of the date it was filed with the hospital and will serve to protect entitlement to benefits and to hospital insurance under the medicare program. A statement filed with a hospital by you or some other person for you requesting or indicating an intent to claim benefits, entitlement to hospital insurance, or both will be considered a written statement filed with us and § 404.630 will apply to it if—

(a) You are a patient in the hospital;

(b) The hospital provides services covered by hospital insurance under the medicare program;

(c) An application has not already been filed; and

(d) The statement is sent to us.

WITHDRAWAL OF APPLICATION

§ 404.640 Withdrawal of an application.

(a) *Request for withdrawal filed before a determination is made.* An application may be withdrawn before we make a determination on it if—

(1) A written request for withdrawal is filed at a place described in § 404.614 by the claimant or a person who may sign an application for the claimant under § 404.612;

(2) The claimant is alive at the time the request is filed; and

(3) We approve the request for withdrawal.

(b) *Request for withdrawal filed after a determination is made.* An application may be withdrawn after we make a determination on it if—

(1) The conditions in paragraph (a) of this section are met;

(2) Any other person who would lose benefits because of the withdrawal consents in writing to it. Written consent for the person may be given by someone who could sign an application for him or her in accordance with § 404.612; and

(3) All benefits already paid based on the application being withdrawn are repaid or we are satisfied that they will be repaid.

(c) *Effect of withdrawal.* If we approve a request to withdraw an application, the application will be considered as though it was never filed. If we disapprove a request for withdrawal, the application is treated as though the request was never filed.

§404.641 Cancellation of a request to withdraw.

A request to withdraw an application may be cancelled and the application reinstated if—

(a) A written request for cancellation is filed at a place described in § 404.614 by the claimant or someone who may sign an application for the claimant under § 404.612;

(b) The claimant is alive at the time the request for cancellation is filed; and

(c) For a cancellation request received after we have approved the withdrawal, the request is filed no later than 60 days after the date of the notice of approval.

PROPOSED RULES
SOCIAL SECURITY ADMINISTRATION
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
BALTIMORE, MARYLAND 21203

WHAT DO YOU THINK ABOUT THESE RULES?

We need your help. We are trying to make all social security rules as clear and easy for the public to understand as possible. The rules published here are one of our efforts to reach this goal. You can help by filling out the questionnaire below or by writing to us. Tell us whether these rules are easy or difficult to understand and how they can be improved. You ideas will help us decide how to improve these rules and other rules we will be publishing in the future.

1. Do you think the rules are clear and easy to understand?

☐ YES ☐ NO ☐ DON'T KNOW

2. Are any of the rules confusing or difficult to follow?

☐ YES ☐ NO ☐ DON'T KNOW

If so, which one(s)? _____

_____

3. How could these rules be improved? _____

_____

_____

_____

4. Do you have any other comments about these rules? _____

_____

_____

_____

(If you need more space for your answer, you can use the back of this page.)

NAME _____

ORGANIZATION _____

ADDRESS _____

_____

PROPOSED RULES

FOLD

Place Stamp Here

SOCIAL SECURITY ADMINISTRATION
DEPARTMENT OF HEALTH, EDUCATION,
AND WELFARE
P.O. BOX 1585
BALTIMORE, MARYLAND 21203

FOLD

[FR Doc. 78-23437 Filed 8-31-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART V

ENVIRONMENTAL PROTECTION AGENCY

■

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Proposed Requirements for Spill Prevention Control and Countermeasure Plans to Prevent Discharges of Hazardous Substances From Certain Facilities

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 151]

[913-1]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM OF THE CLEAN WATER ACT

Hazardous Substances Pollution Prevention for Facilities subject to Permitting Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rule would establish requirements for spill prevention control and countermeasure plans to prevent discharges of hazardous substances from facilities subject to permitting requirements under the National Pollutant Discharge Elimination System of the Clean Water Act (hereafter "the Act").

DATE: Comments on this proposal will be received on or before October 31, 1978.

ADDRESS: Interested persons may participate in this rulemaking by submitting comments to: Mr. Henry D. Van Cleave, Chief, Spill Prevention and Control Branch (WH-548), Division of Oil and Special Materials Control, Office of Water Program Operations, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. After consideration of the comments received in response to this proposal, a notice of final rulemaking will be issued.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry D. Van Cleave, 202-245-3045.

SUPPLEMENTARY INFORMATION: Section 311(j)(1)(C) of the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217) authorizes the President to issue regulations establishing procedures, methods and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities and to contain such discharges.

Section 304(e) of the Act authorizes the Administrator to publish regulations to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which may contribute significant amounts of toxic and hazardous pollutants to navigable waters.

The purpose of these proposed regulations is to prevent discharges of hazardous substances from facilities which are subject to permitting requirements of section 402 of the Act. It is anticipated that in the near future, additional regulations will be published for all other facilities subject to the authority of the Environmental Protection Agency so that hazardous substances pollution prevention regulations will exist for all non-transportation related facilities.

The approach used in this regulation is similar to the one developed and used in EPA's oil pollution prevention regulation, 40 CFR Part 112. This is the concept of the spill prevention control and countermeasure (SPCC) plan. The SPCC plan is developed by the owner or the operator of a facility, or by his/her engineer, in accordance with guidelines contained in the regulation. The plan must be certified by a registered professional engineer and must be implemented by the owner or operator.

These regulations are being proposed concurrently with regulations under section 402 of the Act (40 CFR Part 125, Subpart L). Under the section 402 rgulations, permittees would be required to develop best management practices (BMP) plans to prevent the release of toxic and hazardous pollutants to surface waters. The requirements of the two proposed regulations (40 CFR Part 151 and 40 CFR Part 125) have been coordinated. Compliance with SPCC plan requirements would be established as a minimum level of control for BMP plans.

The purpose of publishing the two regulations concurrently is to allow the owner or operator of a permitted facility to develop BMP and SPCC plans concurrently and thereby avoid duplication of environmental controls. SPCC plans, as required by this regulation, may be incorporated into BMP plans by reference.

Dated: August 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

PART 151—HAZARDOUS SUBSTANCES POLLUTION PREVENTION FOR FACILITIES SUBJECT TO PERMITTING REQUIREMENTS OF SECTION 402 OF THE FEDERAL WATER POLLUTION CONTROL ACT

Sec.

151.1 General applicability.
151.2 Definitions.
151.3 Requirements for preparation and implementation of spill prevention control and countermeasure plans.
151.4 Amendment of SPCC plans by Enforcement Division Director.
151.5 Amendment of spill prevention control and countermeasure plans by owners or operators.
151.6 Civil penalties for violation of hazardous substances pollution prevention regulations.
151.7 Guidelines for the preparation and implementation of a spill prevention control and countermeasure plan.

AUTHORITY: Secs. 304(e), 311(j)(1)(C), 311(j)(2), 501(a), Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217, 33 U.S.C. 1251 et seq.); 5 U.S.C. Reorg. Plan of 1970 No. 3 (1970), 35 FR 15623, 3 CFR 1966-1970 Comp.; E.O. 11735, 38 FR 21243, 3 CFR, unless otherwise noted.

§ 151.1 General applicability.

(a) This part establishes procedures, methods, and equipment and other requirements for equipment to prevent the discharge of hazardous substances from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974 or which may affect natural resources belonging, appertaining to, or under the exclusive management authority of the United Stated (including resources under the Fishery Conservation and Management Act of 1976).

(b) This part applies to owners or operators of non-transportation-related onshore and offshore facilities engaged in producing, storing, processing, refining, handling, transferring, distributing, or consuming hazardous substances and which are subject to national pollutant discharge elimination system (NPDES) permitting requirements under section 402 of the act.

(c) This part provides for the preparation and implementation of spill prevention control and countermeasure plans prepared in accordance with § 151.7 designed to complement existing laws, regulations, rules, standards, policies, and procedures pertaining to safety standards, fire prevention and pollution prevention so as to form a comprehensive balanced Federal/State spill prevention program to minimize the potential for discharges of hazardous substances. Compliance with this part does not in any way relieve the owner or operator of an onshore or an offshore facility from compliance with other Federal, State, or local laws.

§ 151.2 Definitions.

For the purposes of this part:

(a) "Hazardous substances" means those substances listed as hazardous in 40 CFR Part 116.

(b) "Discharge" includes but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into or upon the navigable waters of the United States or adjoining shore lines or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974 or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the

Fishery Conservation and Management Act of 1976).

(c) "Onshore facility" means any facility of any kind located in, on, or under any land within the United States, other than submerged lands, which is not a transportation-related facility.

(d) "Offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel.

(e) "Owner or operator" means any person owning or operating an onshore facility or an offshore facility, and in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment.

(f) "Person" includes an individual, firm, corporation, association, partnership and a Federal, State, and local agency.

(g) "Enforcement Division Director" means the Director of any enforcement division within any regional office of the Environmental Protection Agency or the delegated representative of the Enforcement Division Director.

(h) "Regional Administrator," means the Regional Administrator of the Environmental Protection Agency, or his/her designee, in and for the region in which the facility is located.

(i) "Administrator" means the Administrator of the U.S. Environmental Protection Agency or his/her designee.

(j) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(k) "Navigable waters" is defined in section 502(7) of the act to mean "waters of the United States, including the territorial seas." This term includes but is not limited to:

(1) All waters which are presently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, intermittent streams, and including adjacent wetlands. "Wetlands" includes those areas such as swamps, marshes, bogs, and similar ares that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(2) Tributaries of navigable waters of the United States, including adjacent wetlands;

(3) Interstate waters, including wetlands; and

(4) All other waters of the United States such as intrastate lakes, rivers, streams, mudflats, sandflats, and wetlands, the use, degradation or destruction of which would affect or could affect interstate commerce including but not limited to:

(i) Intrastate lakes, rivers, streams, and wetlands which are or could be used by interstate travelers for recreational or other purposes; and

(ii) Intrastate lakes, rivers, streams, and wetlands from which fish are or could be taken and sold in interstate commerce; and

(iii) Intrastate lakes, rivers, streams, and wetlands which are used or could be used for industrial purposes by industries in interstate commerce.

(5) All impoundments of waters of the United States otherwise defined as navigable waters under this paragraph.

(l) "Contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(m) "Territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles.

(n) "Act" means the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217) also known as the Federal Water Pollution Control Act.

§ 151.3 Requirements for preparation and implementation of spill prevention control and countermeasure plans.

(a) Owners or operators of onshore and offshore facilities in operation on or before the effective date of this part which are subject to NPDES permitting requirements under section 402 of the Act and 40 CFR Part 122 shall prepare a spill prevention control and countermeasure plan (hereafter "SPCC plan" or "plan"), in writing and in accordance with § 151.7. Except as provided for in paragraphs (b), (c), and (f) of this section, the SPCC plan shall be prepared within 6 months of the modification or issuance of an NPDES permit for the facility and shall be fully implemented as soon as possible but not later than 1 year after the modification or issuance of the permit.

(b) Owners or operators of onshore and offshore facilities that become operational after the effective date of this part shall prepare an SPCC plan in accordance with § 151.7. Except as provided for in paragraph (f) of this section, such SPCC plan shall be prepared before the date such facility begins operations and shall be fully implemented as soon as possible but no later than 6 months after the facility begins operations.

(c) Owners or operators of onshore and offshore mobile or portable facilities shall prepare and implement an SPCC plan as required by paragraphs (a), (b), and (d) of this section. The owners or operators of such facility need not prepare a new SPCC plan each time the facility is moved to a new site. The SPCC plan may be a general plan, prepared in accordance with § 115.7, using good engineering practices. When the mobile or portable facility is moved, it must be located and installed using the spill prevention practices outlined in the SPCC plan for the facility. No mobile or portable facility subject to this regulation shall operate unless the SPCC plan has been prepared and implemented. The SPCC plan shall only appy while the facility is in a fixed (nontransportation) operating mode.

(d) No SPCC plan shall be effective to satisfy the requirements of this part unless it has been reviewed by a registered professional engineer and certified to by such professional engineer. By means of this certification the engineer shall attest to the fact that: (1) He/she has examined the facility, (2) he/she is familiar with provisions of this part, (3) the SPCC plan has been prepared in accordance with good engineering practice and with § 151.7. Deviations from the requirements of § 151.7 shall be identified in the SPCC plan and the engineer's reasons for such deviations shall be stated. This certification shall in no way relieve the owner or operator of an onshore or offshore facility of the duty to prepare and fully implement an SPCC plan in accordance with § 151.7, as required by paragraphs (a), (b), and (c) of this section.

(e) Owners or operators of a facility for which an SPCC plan is required under paragraphs (a), (b), or (c) of this section shall: (1) Maintain a complete copy of the plan at the facility (2) make the plan available to the Regional Administrator for onsite review during normal working hours, and (3) mail a complete copy of the plan to the Regional Administrator immediately upon demand.

(f) Extensions of time.

(1) The Enforcement Division Director may authorize an extension of time for the preparation and full implementation of an SPCC plan beyond the time allowed for the preparation and implementation of an SPCC plan under paragraphs (a), (b), or (c) of this section where he/she finds that the owner or operator cannot fully comply

with the requirements of this part, despite all good faith and reasonable efforts.

(2) Any owner or operator seeking an extension of time under paragraph (f)(1) of this section shall submit a letter of request to the Enforcement Division Director. This letter shall include:

(i) A complete copy of the SPCC plan, if completed;

(ii) A full explanation of the cause for the delay and the specific aspects of the SPCC plan affected by the delay;

(iii) A full discussion of actions being taken or contemplated to minimize or mitigate such delay;

(iv) A proposed time schedule for the implementation of any corrective actions being taken or contemplated, including interim dates for completion of tests or studies, installation, and operation of any necessary equipment or other preventive measures; and

(v) Other information relevant to the request.

(3) The submission of a letter of request for extension of time under paragraph (f)(2) of this section shall in no way relieve the owner or operator from his/her obligation to comply with the requirements of § 151.3 (a), (b), or (c). Where an extension of time is authorized by the Enforcement Division Director for particular equipment or other specific aspects of the SPCC plan, this extension shall in no way affect the owner's or operator's obligation to comply with the requirements of § 151.3 (a), (b), or (c) with respect to other equipment or other specific aspects of the SPCC plan for which an extension of time has not been expressly authorized.

§ 151.4 Amendment of SPCC plans by Enforcement Division Director.

(a) Notwithstanding compliance with § 151.3, whenever a facility subject to § 151.3 (a), (b), or (c) has discharged hazardous substances in harmful quantities as determined in 40 CFR part 118 or in violation of a permit issued under section 402 of the Act, the owner or operator of the facility shall submit to the Enforcement Division Director, within 60 days from the time such facility becomes subject to this section, the following:

(1) Name of the facility;

(2) Name(s) of the owner or operator of the facility;

(3) Location of the facility;

(4) Date and year of initial facility operation;

(5) Permit number under section 402;

(6) Maximum storage and handling capacity of the facility and normal daily throughput;

(7) Description of the facility, including maps, flow diagrams, and topographical maps;

(8) A complete copy of the SPCC plan with any amendments;

(9) The cause(s) of the spill, including a failure analysis of system or subsystem in which the failure occurred;

(10) The corrective actions and/or countermeasures taken, including an adequate description of equipment repairs and/or replacements;

(11) Additional preventive measures taken or contemplated to minimize the possibility of recurrence; and

(12) Such other information as the Enforcement Division Director may reasonably require pertinent to the plan or discharge.

(b) The requirements of this section shall not apply until the expiration of the time permitted for the preparation and implementation of an SPCC plan under § 151.3 (a), (b), (c), and (f).

(c) A complete copy of all information provided to the Enforcement Division Director under paragraph (a) of this section shall be sent at the same time to the State agency in charge of water pollution control activities in the State in which the facility is located and in the State in which the discharge occurred, if not the same. Upon receipt of such information, the State agencies may conduct a review and make recommendations to the Enforcement Division Director as to further procedures, methods, equipment, and other requirements for equipment necessary to prevent and to contain discharges of hazardous substances from such facility.

(d) After review of the SPCC plan for a facility subject to paragraph (a) of this section, together with all other information submitted by the owner or operator of such facility, and by the State agencies under paragraph (c) of the section, the Enforcement Division Director may require the owner or operator of such facility to amend the SPCC plan if he/she finds that the plan does not meet the requirements of this part or that the amendment of the plan is necessary to prevent and to contain discharges of hazardous substances from such facility.

(e) When the Enforcement Division Director proposes to require an amendment to the SPCC plan, he/she shall notify the facility operator by certified mail addressed to, or by personal delivery to, the facility owner or operator, that he/she proposes to require an amendment to the plan, and shall specify the terms of the amendment. If the facility owner or operator is a corporation, a copy of such notice shall also be mailed to the registered agent, if any, of the corporation in the State where the facility is located. Within 30 days from receipt of this notice, the facility owner or operator may submit written information, views, and arguments on the amendment. After considering all relevant materials presented, the Enforcement Division Director shall notify the facility owner or operator of any amendment required or shall rescind the notice. The amendment required by the Enforcement Division Director shall become part of the plan 30 days after such notice, unless the Enforcement Division Director for good cause, shall specify another effective date. The owner or operator of the facility shall implement the amendment to the plan as soon as possible but not later than 6 months after the amendment becomes part of the plan unless the Enforcement Division Director specifies another date.

(f) An owner or operator may appeal a decision made by the Enforcement Division Director requiring an amendment to an SPCC plan by requesting an evidentiary hearing in accordance with 40 CFR 124.74. Subsequent appeals to the Regional Administrator and the Administrator, respectively, may be made in accordance with 40 CFR part 124, subpart I.

§ 151.5 Amendment of spill prevention control and countermeasure plans by owners or operators.

(a) Owners or operators of facilities subject to § 151.3 (a), (b), or (c) shall amend the SPCC plan for such facility in accordance with § 151.7 whenever there is a change in facility design, construction, operation or maintenance which materially affects the facility's potential for the discharge of hazardous substances. These amendments shall be fully implemented as soon as possible, but not later than 6 months after a change occurs.

(b) Notwithstanding compliance with paragraph (a) of this section, owners and operators of facilities subject to § 151.3 (a), (b), or (c) shall complete a review and evaluation of the SPCC plan upon permit issuance, reissuance, or modification. As a result of this review and evaluation, the owner or operator shall amend the SPCC plan within 6 months of the review to include more effective prevention and control technology if such technology will significantly reduce the likelihood of a spill or discharge from the facility. The owner or operator shall affix a signed and dated statement to the SPCC plan at the completion of the review indicating that a review has taken place and whether an amendment to the plan was or was not determined to be necessary.

(c) No amendment to an SPCC plan shall be effective to satisfy the requirements of this section unless it has been certified by a professional engineer in accordance with § 151.3(d).

§ 151.6 Civil penalties for violation of hazardous substances pollution prevention regulations.

Owners or operators of facilities subject to § 151.3 (a), (b), or (c) who violate the requirements of this part 151 by failing or refusing to comply with any of the provisions of § 151.3, § 151.4 or § 151.5 shall be liable for a civil penalty of not more than $5,000 for each day such violation continues. This subsection shall not apply to Federal agencies.

§ 151.7 Guidelines for the preparation and implementation of a spill prevention control and countermeasure plan.

The SPCC plan shall be prepared in accordance with good engineering practices, and the requirements of § 151.7 and shall have full approval of management at a level with authority to commit the necessary resources. The plan shall be in narrative form and shall describe all of the preventive systems or major preventive features required by these guidelines. Where maps, drawings, or plot plans are necessary to describe the prevention practices at the facility, they shall be included in the plan. If the plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items shall be discussed in separate paragraphs, and the details of installation and operational startup shall be explained. The complete SPCC plan shall follow the sequence outlined below, and include a discussion of the facilities' conformance with the applicable requirements. Where the SPCC plan does not conform to the applicable requirements, the SPCC plan shall so indicate, stating the reasons for nonconformance and indicate the alternative methods to achieve equivalent protection.

(a) A facility which has experienced one or more discharges within 12 months prior to the effective date of this part shall include a written description of each incident, corrective action taken and plans for preventing recurrence.

(b) Considering local drainage patterns and facility storage capacity and throughput, the plans shall include a prediction of the direction, rate of flow and total quantity of hazardous substances which could be discharged from the facility as a result of a major failure or accident.

(c) General requirements:

(1) Appropriate containment, drainage control and/or diversionary structures shall be provided. One of the following preventive systems as prescribed in § 151.7(d) or its equivalent shall be used as a minimum:

(i) Dikes, berms, retaining walls, impounding basins, diversion ponds, retention ponds or other forms of secondary containment. Secondary containment systems shall be sufficiently impervious to contain spilled hazardous substances.

(ii) Curbing culverting, gutters, sewers or other forms of drainage control.

(iii) Roofs, covers or other forms of protection to prevent storage piles from windblowing and leaching.

(d) Specific requirements:

(1) *Liquid storage areas.* Tank or container materials shall be compatible with the material stored. Secondary containment, sufficent to contain the capacity of the largest single container or tank in the drainage system shall be provided. If the drainage area is subject to precipitation, a reasonable allowance for its accumulation, based on local weather conditions and plant operation, shall be provided over and above the volume necessary to contain the largest single tank or container. Secondary containment systems shall be sufficiently impervious to contain spilled hazardous material until it can be removed or treated. The plant treatment system may be used to provide secondary containment provided it has sufficient excess holding capacity always available to hold the contents of the largest container in the drainage area plus a reasonable allowance for precipitation.

(2) *Raw material storage areas (other than liquids).* Raw materials storage areas which are subject to runoff, leaching, or windblowing shall incorporate drainage or other control features which will prevent the discharge of hazardous substances. Drainage control shall direct contaminated runoff or leachate to treatment systems or to other areas for disposal, which shall be described in the plan.

(3) *Plantsite runoff other than from areas covered by (1) and (2).* Other areas of the facility from which runoff or spills of hazardous materials could cause a discharge shall incorporate the necessary drainage or other control features to prevent discharge and to insure the treatment or disposal of runoff, spilled material or leachate as in paragraph (d)(2) of this section.

(4) *Truck and rail car liquid loading and unloading areas* shall contain sufficient secondary containment or treatment capacity to hold or treat the largest tank truck or rail car or the largest compartment of a tank truck or rail car if the tanks are compartmented, which is loaded or unloaded at the facility. If the secondary containment is provided in the treatment system, it must be designed so that the extra available capacity always exists to contain a spill of the largest container using the loading and unloading areas, plus a reasonable allowance for precipitation.

(5) *In plant transfer, process and materials handling areas.* Piping, processing equipment and materials handling equipment shall be designed and operated so as to prevent discharges of hazardous substances. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall be designed as described in paragraph (d) (1), (2), and (3) of this section. Additional protection such as covers or guards to prevent windblowing, spraying or releases from pressure relief vents from causing a discharge of hazardous substances shall be provided as appropriate.

(6) *Preventive maintenance and housekeeping.* All areas of the facility shall be inspected at specified intervals for leaks or conditions that could lead to discharges. In particular, plant piping, pumps, storage tanks and bins, pressure vessels, process and materials handling equipment and material bulk storage areas shall be examined for any conditions or failures which could cause a discharge. Inspections shall include examinations for leaks, windblowing, corrosion, support or foundation failure or other forms of deterioration or noncontainment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered, corrective action shall be immediately taken or the unit or process shut down until corrective action can be taken. When a leak or noncontainment has occurred, contaminated soil, debris, or other material must be promptly removed and disposed of in accordance with Federal, State, or local requirements and as described in the plan.

(7) *Release of rainwater from diked or other drainage areas.* Only uncontaminated rainwater may be released from diked or other plant drainage areas unless the released water will be given approved treatment. The release of rainwater or snowmelt shall be supervised as specified in the plan and only after sufficient testing to assure that there will be no discharge.

(8) *Facility security.* Facilities shall have the necessary security systems to prevent accidental or intentional entry which could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings. While it is recognized that it may be impossible to stop a determined and well-equipped vandal, a reasonable effort will discourage most intentional and almost all accidental entry problems.

(9) *Training.* Facility employees and contractor personnel using the facility

shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan but not less than once per year, in matters of pollution control laws and regulations, and in the SPCC plan and the particular features of the facility and its operations which are designed to prevent discharges. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills or emergency releases of hazardous substances can be isolated and contained before a discharge can occur. Contractor or temporary personnel shall be informed of those plant operating and design features which they should know about in order to prevent discharges or spills from occurring.

[FR Doc. 78-24660 Filed 8-31-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART VI

ENVIRONMENTAL PROTECTION AGENCY

■

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Criteria and Standards for Imposing Best Management Practices for Ancillary Industrial Activities

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 125]

[FRL 912-3A]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Criteria and Standards for Imposing Best Management Practices for Ancillary Industrial Activities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the existing regulations governing the National Pollutant Discharge Elimination System (NPDES) program in order to reflect new controls on toxic and hazardous pollutants under the 1977 amendments to the Clean Water Act. The proposed rule indicates how "best management practices" for onsite industrial activities (such as materials storage and waste disposal) may be imposed in NPDES permits to prevent the release of toxic and hazardous pollutants to surface waters. It should be read in conjunction with regulations recently proposed (43 FR 37078, Aug. 21, 1978) to amend the NPDES program as a whole (new parts 122-125) and with regulations proposed today in separate part V for spill prevention control and countermeasure plans (new part 151).

DATES FOR COMMENTS: Comments must be received on or before October 31, 1978. A notice was published in the FEDERAL REGISTER concerning two meetings open to the public for discussing and receiving comments on the proposed NPDES regulations. These meetings are scheduled for September 19, 1978 (in Washington, D.C.) and September 21, 1978 (in San Francisco, Calif.).

ADDRESSES: Interested persons may participate in this proposed rulemaking by submitting comments to Edward A. Kramer, Permits Division (EN-336), Office of Water Enforcement, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. A copy of all public comments will be available for inspection and copying at EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying. Two open meetings to discuss and receive comments on the proposed regulations, are to be held at the following addresses:

September 19, 1978, 1 to 5 p.m. and 7 to 10 p.m., GSA Auditorium, 18th and F Streets NW., Washington, D.C. 20450. (For information concerning the Washington, D.C. meeting contact Edward A. Kramer at address shown below.)

September 21, 1978, 1 to 5 p.m. and 7 to 10 p.m., EPA, Region IX, 6th Floor Conference Room, 215 Fremont Street, San Francisco, Calif. 94104. (For further information concerning the San Francisco meeting contact Rick Hoffman, EPA, Region IX, Office of External Relations, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-6695.)

FOR FURTHER INFORMATION CONTACT:

Edward A. Kramer (EN-336), Office of Water Enforcement, Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: Under section 304(e) of the 1977 amendments to the Clean Water Act (Pub. L. 95-217), Congress established new authority to protect surface waters from toxic and hazardous pollutants through "best management practices" (BMP's) imposed in NPDES permits. Best management practices must be imposed to control "plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage" which are associated with or ancillary to the industrial manufacturing or treatment process.

This proposed rule describes how BMP's for onsite industrial activities under section 304(e) shall be reflected in permits for dischargers who use, manufacture, store, handle, or discharge significant amounts of toxic or hazardous pollutants into waters of the United States. Two methods of control are required.

First, best management practices may be incorporated into permits as express requirements, either as required by a promulgated effluent limitations guideline for that industry or as determined to be necessary on a case-by-case basis under section 402(a)(1) of the act.

In addition, unless applicable standards and limitations are adequate to control toxic and hazardous pollutants, all such dischargers must develop and implement a "BMP plan" to prevent or minimize the potential for release of toxic and hazardous pollutants. The BMP plan must establish specific control objectives, established specific practices to meet those objectives, and be certified by a registered professional engineer. The plan would be incorporated by reference into the permit, with its adequacy determined by its effectiveness in preventing the release of toxic and hazardous pollutants. The failure to develop and implement an adequate BMP plan, as well as the discharge of pollutants in contravention of an adequate BMP plan, will constitute a permit violation and subject the permittee to enforcement action. The BMP plan approach would be implemented under section 402(a)(1) of the act; its individualized focus would provide flexibility and encourage innovation in establishing best management practices.

These regulations are being proposed in conjunction with regulations under section 311(j)(1)(C) of the act (40 CFR Part 151). Under the section 311 regulations, permittees would be required to develop spill prevention control and countermeasure (SPCC) plans to prevent discharges of hazardous substances to surface waters. To insure regulatory consistency, SPCC plan requirements would constitute minimum requirements for BMP plans. The purpose of publishing the two regulations concurrently is to allow the owner or operator of a permitted facility to develop BMP and SPCC plans concurrently, and thereby avoid duplication of environmental controls. SPCC plans, as required by proposed regulations, could be incorporated into BMP plans by reference.

Based upon the experience of the oil SPCC program, EPA believes that the flexible, self-regulatory approach of the BMP plan is the least costly alternative available under section 304(e). However, to insure that this is in fact the case, comments are solicited on:

(1) The cost breakdowns for BMP plans for particular industries; and

(2) Whether any less costly alternatives (that are environmentally and legally acceptable) exist.

For further assistance in this regard, EPA has prepared a cost analysis which is available upon request from Edward Kramer, the contact person noted above.

NOTE.—The Environmental Protection Agency has determined that this document does not constitute a major regulation requiring preparation of an economic impact statement under Executive Order 12044.

Dated: August 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

PART 125—CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Subpart L—Criteria and Standards for Imposing Best Management Practices Under Section 304(e) of the Act

Sec.

125.60 Purpose and scope.
125.61 Definitions.
125.62 Applicability of best management practices.
125.63 Permit terms and conditions.
125.64 Best management practices plan.

1. 40 CFR Part 125 is proposed to be amended by adding a new subpart L, as follows:

Subpart L—Criteria and Standards for Imposing Best Management Practices (BMP) Under Section 304(e) of the Act

§ 125.60 Purpose and scope.

This subpart describes how best management practices for ancillary industrial activities under section 304(e) of the Act shall be reflected in permits, including best management practices promulgated in effluent limitations under section 304 and established on a case-by-case basis in permits under section 402(a)(1) of the Act. Best management practices authorized by section 304(e) are included in permits as requirements for the purposes of sections 301, 302, 306, 307, or 403, as the case may be.

§ 125.61 Definitions.

For purposes of this subpart:

(a) "Best management practices" (BMP) means methods, measures, or practices to prevent or reduce the contribution of pollutants to waters of the United States. BMP's include but are not limited to treatment requirements, operating and maintenance procedures, schedules of activities, prohibitions of activities, and other management practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage. They may be imposed in addition to or in the absence of effluent limitations, standards, or prohibitions.

(b) "Manufacture" means to produce as an intermediate or final product, or byproduct.

§ 125.62 Applicability of Best Management Practices.

Dischargers who use, manufacture, store, handle or discharge any pollutant listed as toxic under section 307(a)(1) of the Act or any pollutant listed as hazardous under section 311 of the Act are subject to the requirements of this subpart for all activities which may result in significant amounts of those pollutants reaching waters of the United States. These ancillary activities include but are not limited to: Manufacturing operations; materials storage; materials handling, housekeeping, or waste treatment and disposal; and preventive maintenance.

§ 125.63 Permit terms and conditions.

(a) Best management practices shall be expressly incorporated into a permit where required by an applicable EPA promulgated effluent limitations guideline under section 304(e);

(b) Best management practices may be expressly incorporated into a permit on a case-by-case basis where determined necessary to carry out the provisions of the Act under section 402(a)(1). In issuing a permit, consideration shall be given to the following factors:

(1) Toxicity of the pollutant(s);

(2) Quantity of the pollutant(s) used, produced or discharged;

(3) History of NPDES violations;

(4) History of significant leaks or spills of toxic or hazardous pollutants;

(5) Potential for adverse impact on public health (i.e., proximity to a public water supply) or the environment (i.e., proximity to a sport or commercial fishery); and

(6) Any other factors determined to be relevant to the control of toxic or hazardous pollutants.

Best management practices may be established in permits under paragraph (b) alone or in combination with those required under paragraph (a) of this section.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, dischargers covered under § 125.62 shall develop and implement a best management practices plan (BMP plan) in accordance with § 125.64 which prevents or minimizes the potential for the release of toxic or hazardous pollutants from ancillary activities to waters of the United States. A BMP plan does not have to be prepared if the discharger can demonstrate that the discharges involved are adequately controlled by applicable standards and limitations in the permit.

§ 125.64 Best management practices plans.

(a) BMP plans shall be prepared in accordance with good engineering practices and with the provisions of this subpart. No BMP plan shall be effective to satisfy the requirements of this subpart unless it has been reviewed and certified by a registered professional engineer. In this certification, the engineer shall attest to the fact that:

(1) He/she has examined the facility;

(2) He/she is familiar with the provisions of this subpart; and

(3) The BMP plan has incorporated, in accordance with good engineering practices, procedures which will prevent or minimize the potential for the release of toxic or hazardous pollutants from ancillary activities to waters of the United States.

This certification shall in no way relieve the owner or operator of the permitted facility of the duty to prepare and implement the BMP plan in accordance with the provisions of this subpart.

(b) The BMP plan shall: (1) Be in narrative form, but shall include any necessary plot plans, drawings or maps;

(2) Establish specific objectives for the control of toxic and hazardous pollutants;

(i) Each facility component or systems shall be examined for its potential for causing a release of significant amounts of toxic or hazardous pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as rain or snowfall, et cetera.

(ii) Where experience indicates a reasonable potential for equipment failure (such as a tank overflow, rupture or leakage) or natural conditions (such as a rainfall event) to result in significant amounts of toxic or hazardous pollutants reaching surface waters, the plan should include a predication of the direction, rate of flow and total quantity of toxic or hazardous pollutants which could be discharged from the facility as a result of each major type of failure or condition.

(3) Establish specific best management practices to meet the objectives identified under paragraph (b)(2) of this section, addressing each component or system capable of causing a release of significant amounts of toxic or hazardous pollutants to the waters of the United States.

(4) At a minimum, the BMP plan shall: (i) Reflect requirements for spill prevention control and countermeasure (SPCC) plans under section 311 of the Act and 40 CFR Part 151, and shall incorporate any such plans into the BMP plan by reference;

(ii) Assure the proper management of solid and hazardous waste in accordance with regulations promulgated under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (40 U.S.C. 6901 *et seq.*) Management practices required under these regulations shall be expressly incorporated into the BMP plan; and

(iii) address the following points:

(A) Liquid and raw material storage areas.

(B) Plantsite runoff.

(C) Truck and railcar loading and unloading areas.

(D) Inplant transfer, process and materials handling areas.

(E) Preventive maintenance and housekeeping.

(F) Release of rainwater from diked or other drainage areas.

(G) management of solid and hazardous waste.

(H) Materials handling.

(I) BMP-related employee training.

(c) The BMP plan shall be incorporated by reference into the permit. It shall be prepared within 6 months of the modification or issuance of the NPDES permit for the facility, and shall be fully implemented as soon as possible, but not later than 1 year

after the date of modification or issuance unless the Enforcement Division Director or, where appropriate, the Director specifies a later date in the permit. A later date may be specified in the permit in order to enable coordinated preparation of the BMP plan required under these regulations and the SPCC plan required under section 311.

(d) The discharger shall maintain a complete copy of the BMP plan at the facility and shall make the plan available to the Enforcement Division Director or the Director upon demand.

(e) Owner or operators of facilities subject to this subpart shall amend the BMP plan for the facility in accordance with the provisions of this subpart whenever there is a change in facility design, construction, operation or maintenance which materially affect the facility's potential for discharge of significant amounts of hazardous or toxic pollutants into the waters of the United States. No amendment to a BMP plan shall satisfy the requirements of this paragraph unless it is certified by a registered professional engineer in accordance with paragraph (a) of this section.

(f) Any release of toxic or hazardous pollutants from ancillary industrial activities to waters of the United States not in accordance with an applicable BMP plan shall be a violation of the permit. If the BMP plan proves to be ineffective in achieving the general objectives of preventing the release of toxic or hazardous pollutants to those waters and the specific objectives and requirements under paragraph (b) of this section, the permit and/or the BMP plan shall be subject to modification to incorporate revised BMP requirements.

[FR Doc. 78-24661 Filed 8-31-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART VII

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

MIGRATORY BIRD HUNTING

Final Frameworks for Late Season Migratory Bird Hunting Regulations

[4310-55]

Title 50—Wildlife and Fisheries

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

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

PART 20—MIGRATORY BIRD HUNTING

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks, that is, the outer limits for dates and times when shooting may begin and end, and the number of birds which may be taken and possessed for late season migratory bird hunting regulations for the 1978-79 season. These seasons commence on or after September 30, 1978, and include most of those for waterfowl. The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to establish late season migratory bird hunting regulations for the 1978-79 season.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone 202-254-3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game girds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons and those for "late" seasons. Early seasons include those which open before September 30 while late seasons open on or after September 30. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic flyway, teal in September in the Central and Mississippi flyways, sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central flyway; coots, gallinules, and snipe in the Pacific flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a FEDERAL REGISTER document in mid-February, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, one or more supplemental proposed rules are announced in the FEDERAL REGISTER. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period and after consideration of additional comments, the Service publishes in the FEDERAL REGISTER the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20 then appear in the FEDERAL REGISTER, and become effective upon publication.

This year the process was implemented as follows: On February 14, 1978, the Service published for public comment in the FEDERAL REGISTER (43 FR 6275) proposals to amend 50 CFR 20, with a comment period ending May 16, 1978. That document dealt with the establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1978, the Service published for public comment in the FEDERAL REGISTER (43 FR 22421) a second document in the series consisting of a supplemental proposed rulemaking dealing specifically with a number of additional or modified proposals and clarification or correction of minor portions of the earlier document. On June 28, 1978, the Service also published for public comment in the FEDERAL REGISTER (43 FR 28012) the third document in the series consisting of a supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1978-1979 season. On June 30, 1978, the Service published in the FEDERAL REGISTER (43 FR 28499) the fourth document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in Alaska, Puerto Rico, and the Virgin Islands during the 1978-79 season. On July 24, 1978, the Service published in the FEDERAL REGISTER (43 FR 32098) the fifth document in the series consisting of final rulemaking dealing specifically with final frameworks for early season migratory bird hunting regulations in all States during the 1978-79 seasons from which States selected early season dates and daily bag and possession limits for the 1978-79 season. On August 11, 1978, the Service published in the FEDERAL REGISTER (43 FR 35900) the sixth document in the series consisting of final rulemaking amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting hours and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. Also, on August 11, 1978, the Service published for public comment in the FEDERAL REGISTER (43 FR 35890) the seventh document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed regulations frameworks for late season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits on certain migratory birds for the 1978-79 season. This final rulemaking document is the eighth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final regulations frameworks for 1978-79 late hunting seasons on certain migratory game birds.

On June 21, 1978, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER on February 14, 1978 (43 FR 6275) and

May 25, 1978 (43 FR 22421) to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, sandhill cranes in North Dakota and South Dakota, and common snipe. Proposed hunting regulations for these species were discussed plus those governing migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central flyways; and special sea duck seasons in the Atlantic flyway. Statements or comments were invited. On August 2, 1978, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER on February 14, 1978 (43 FR 6275) and May 25, 1978 (43 FR 22421) to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; sandhill cranes in Colorado, New Mexico, Oklahoma, Texas, Montana, and Wyoming; common snipe in the Pacific flyway; and special falconry regulations. Statements or comments were invited.

REVIEW OF PUBLIC COMMENTS AND THE SERVICE'S RESPONSE

The public was given several opportunities to comment on regulations being proposed for late seasons during 1978–79. Public comments relating to the initial proposed regulations for late hunting seasons, supplemental proposed frameworks, and statements made at the public hearings on June 21 and August 2, 1978, were summarized and responded to in various issues of the FEDERAL REGISTER (43 FR 6275, 43 FR 22421, 43 FR 28012, 43 FR 28499, and 43 FR 32098). Ten public comments, all on late hunting season proposals, were received since the latter publication. These originated from seven States (two comments were received from one State), one national conservation organization, and one individual.

The issue drawing the most comment was the Service's proposal to allow Mississippi flyway States engaged in experimental evaluations of zoning waterfowl seasons to split hunting seasons in each zone. Although one State favored the proposal, six State conservation agencies and the Defenders of Wildlife expressed strong opposition, citing the following points supporting their positions:

1. Memoranda of Agreement between the Service and each State participating in the zoning experiment specify that hunting regulations will not be changed during the 3-year experimental period (unless the experiment is terminated), and that hunting seasons must be continuous in both zones.

2. The Mississippi Flyway Council did not endorse an option to allow all States participating in the zoning experiments to split their hunting seasons within zones as proposed by the Service. Five Mississippi flyway States initiated zoning experiments during the 1977–78 season and a sixth State indicates it will participate this season.

3. The proposal would interject a second variable into the zoning experiment, making it more difficult to evaluate the results to determine whether either variable acting independently or working together caused any significant changes which may occur in harvests. Also, if this change were made, data from the 1978–79 hunting season would not be comparable to data already collected during the 1977–78 season.

4. The combination of zoning and split seasons might undesirably increase harvests in the participating States, contrary to the stated objectives of the experiment.

Service response: In proposing the option for split seasons within zones for all Mississippi flyway States participating in the zoning study, the Service acted in the belief that this change was favored by the council and the participating States. The comments now on record demonstrate that this is not the case. In the light of these comments, the Service has determined that it is not appropriate now to permit split seasons within zones in the zoning study in the Mississippi flyway. Accordingly, seasons within zones may not be split but must run continuously as spelled out in the original agreement for the zoning study in the Mississippi flyway and as reflected in the respective Memorandum of Agreement with the various participating States.

A few additional comments were received on other proposals. One Mississippi flyway State requested that the permissible season opening date be changed from October 1 to September 30, so that the season could open on a Saturday as in an adjoining Central flyway State. Framework opening and closing dates apply uniformly throughout each flyway and the present dates for the Mississippi flyway have been accepted as standard for a number of years, with council approval. The Service is of the view that a change of the type proposed should be reviewed and discussed with the Council before taking any action.

One individual observed that the possession limit for canvasbacks and redheads, where it is permissible to hunt these species, is more restricted under conventional hunting regulations than under the point system regulations. He suggested that possession limits for these species be increased under conventional regulations. The Service notes that under the point system, attaining the possession limit of canvasbacks and/or redheads ordinarily restricts the possession of other species of ducks to a greater degree than is the case with conventional regulations. These two types of regulations operate in different ways and cannot be made exactly comparable in all details. The Service is of the view that making the requested change would result in an increased harvest of canvasbacks and redheads which is not desirable at the present time.

Wisconsin noted that the Canada goose daily bag limit for that State was incorrectly shown as 1, and recommended that in the Horicon Zone the possession limit after the first hunting period there be two Canada geese. The Service has made these corrections which are in line with the cooperative management program for Canada geese in Wisconsin. The harvest of Canada geese in Wisconsin is controlled by quotas and a tagging system, thus these changes should have no impact on the overall harvest.

STEEL SHOT REGULATIONS

Nontoxic shot requirements in some areas apply to waterfowl regulations frameworks being finalized here. On February 28, 1978, the Service published in the FEDERAL REGISTER (43 FR 8144) final regulations regarding zones in all flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1978. The intended effect of establishing these steel shot regulations is to reduce the number of waterfowl deaths caused by ingesting spent lead pellets. On June 30, 1978, the Service published in the FEDERAL REGISTER (43 FR 28501) an amendment modifying descriptions of some of the zones published on February 28 in order to reduce the size of zones in New York and Texas, and permit shooting tests to be conducted within zones in Illinois and California. On June 29, 1978, the Service published in the FEDERAL REGISTER (43 FR 28205) a final rule extending the 1977 ruling (42 FR 39106; August 2, 1977) allowing possession of shells loaded with toxic shot in gages other than 12 gage while hunting waterfowl in nontoxic shot zones during the 1978–79 season. The extension was allowed because supplies of shells in gages other than 12 gage will not be available in 1978. The regulations appear under 50 CFR, §§ 20.21 and 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

NEPA CONSIDERATION

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmen-

tal Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241). An environmental assessment on shooting hours (42 FR 40211; August 9, 1977) enlarged upon the discussion on shooting hours in FES 75-54. Several other environmental assessments or statements addressed species or regulatory subjects peculiar to late season regulations and implementation of the nontoxic shot program. Copies of these documents are available from the Service.

ENDANGERED SPECIES ACT CONSIDERATION

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated for early seasons in the United States this year and concluded in a biological opinion that none of the proposals, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act, or adversely modify their critical habitat or habitats that may be determined as critical in the future. Likewise, the biological opinion concluded that the proposed regulations were not contrary to, and did not undermine the Service's obligation to conserve endangered or threatened species. The consideration of section 7 was described in more detail in the FEDERAL REGISTER dated August 11, 1978, on page 35892.

On July 25, 1978, the Service published a final rule in the FEDERAL REGISTER (43 FR 32257) which removes the Mexican duck (*Anas diazi*) from the endangered species list. Authority for its management will continue under, and be guided by the Migratory Bird Treaty Act of 1918. The final rule took effect on August 24, 1978. The rulemaking document described in detail the evidence and rationale for the decision to take this action. Important conclusions resulting from the Service's review of the Mexican duck include:

1. Apparently genotypically pure populations of *diazi* are found only in the central highlands of Mexico,

2. There is only a very remote possibility that any genotypically pure Mexican ducks are present in the United States, and

3. The population of Mexican-like ducks in the United States is not threatened; in fact, it appears to be expanding its range.

A management plan will be developed for Mexican-like ducks in the United States. In the interim, Mexican-like ducks will be accorded the same level of protection during the 1978-79 hunting season as is given female mallards in the high plains portion of the central flyway. In designated portions of the Pacific flyway, restrictions this year will limit the taking of both female mallards and the similar appearing Mexican-like ducks to no more than two in the aggregate.

The proposed late season regulatory frameworks were likewise subjected to careful study to insure that they complied with section 7 of the Endangered Species Act. Special attention was given the Aleutian Canada goose (*Branta canadensis leucopareia*), Everglade kite (*Rostrhamus sociabilis plumbeus*), whooping crane (*Grus americanus*), bald eagle (*Haliaeetus leucocephalus*), and peregrine falcon (*Falco peregrinus*). A biologicial opinion reviewed and evaluated the population and habitat status and trends of these endangered species; factors affecting their status and welfare; management programs underway or planned to enhance the status of the species; and the impacts, if any, of the proposed late season hunting regulations. In a biological opinion dated August 24, 1978, Acting Director Keith M. Schreiner concluded, "that the late season of the 1978-79 regulations frameworks is not likely to jeopardize the continued existence of the species addressed herein. I further conclude that the Service has taken all reasonable measures to insure that these regulations are compatible with other conservation programs being carried out for each of these species." The Service wishes to reiterate that delays or closures of migratory bird hunting seasons will be considered, and invoked when justified, for the protection of endangered species.

The Service's biological opinions and threshold examination reports resulting from consultation under section 7 are available for public inspection in the Office of Endangered Species, U.S. Fish and Wildlife Service, Room 1100, 1612 K Street NW., Washington, D.C. 20240, or the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 525, Matomic Building, 1717 H Street NW., Washington, D.C. 20240. Copies may also be supplied by mail upon request.

AUTHORSHIP

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

REGULATIONS PROMULGATION

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 14, May 25, June 28, and August 11, the Service established what it believed were the longest periods' possible for public comment. In doing this, the Service recognized that at the periods; close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, and bag limits; to communicate those selections to the Service; and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service prescribes the final frameworks setting forth the species to be hunted, daily bag and possession limits, season dates, shooting hours, and special closures from which State conservation agency officials may select open season dates. Upon receipt of season selections from State officials, the Service will publish in the FEDERAL REGISTER final rulemaking amending certain sections of subpart K of 50 CFR part 20 to reflect seasons, limits, and shooting hours for the contiguous United States for the 1978-79 season.

FINAL REGULATIONS FRAMEWORKS FOR 1978-79 LATE HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; common snipe in the Pacific flyway; and extended falconry seasons. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions. For the guidance of State conservation agencies, these frameworks are summarized below.

GENERAL

States may split their seasons for ducks or geese into two segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are one-half hour before sunrise until sunset, except that September teal season shooting hours are sunrise until sunset.

States in the Atlantic, Mississippi, and central flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of two and four blue-winged teal, respectively for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

States in the Atlantic, Mississippi, and central flyways may select a special scaup-only hunting season not to exceed 16 consectuve days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1978, and January 31, 1979, all dates inclusive.
2. The season must fall outside the open season for any other ducks except sea ducks.
3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1978.
4. These areas must be described and delineated in State hunting regulations.

OR

As an alternative, States in the Atlantic, Mississippi, and central flyways, except those selecting a point system, may select an extra daily bag and possession limit of two and four scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island area. New York may not select the point system within the upstate zoning option, and Maine and Connecticut may not select the point system pending completion of zoning studies currently underway. North Carolina may select either conventional or point system regulations.

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit option, and other special provisions are listed below by flyway.

ATLANTIC FLYWAY

Between October 1, 1978, and January 20, 1979, States in this flyway may select open seasons on ducks, coots, and mergansers of: (a) 50 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) 50 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks.

Except in closed areas, the limit on canvasbacks and redheads is one canvasback daily and one in possession or one redhead daily and one in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, N.Y., and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia, and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point sytem options, the daily bag and possession limits may not include more than two and four wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia, and Florida may split their regular hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway in 1978 shall apply to wood ducks. Under the point system, the point value of wood ducks shall be 25. For other species of ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra blue-winged teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is five, only one of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of three scaup or three goldeneyes or three in the aggregate and a possession limit of six scaup or six goldeneyes or six in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (west, north, south) on an experimental basis for the purpose of setting separate duck, coot, and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the upstate area within the flyway framework; only conventional regulations may be selected. Each zone will be permitted the full number of days offered under option (a) or (b). In addition, a split season without penalty may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the flyway also apply. Teal and scaup bonus bird options shall be applicable to the upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows:

The west zone is that portion of upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The north and south zones are bordered on the west by the boundary described above and are separated from each other as follows:

Starting at the intersection of Interstate Highway 81 and New York Route

49 and extending easterly along Route 49 to its junction with Route 8 in Utica, then southerly along Route 8 to its intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachusetts border.

Maine, Connecticut, and North Carolina each may be divided into two zones on an experimental basis for the purpose of setting separate duck, coot, and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones within the flyway framework; only conventional regulations may be selected in Maine and Connecticut. Both zones will be permitted the full number of days offered under option (a) or (b). In addition, a split season without penalty may be selected. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the flyway also apply. Teal and scaup bonus bird options, if offered, and the 16-day special scaup season shall be allowed.

The zones are defined as follows:

MAINE

North zone—Game Management Zones 1, 2, and 3.

South zone—Game Management Zones 4 through 8.

CONNECTICUT

North zone—That portion of the State north of Interstate 95.

South zone—That portion of the State south of Interstate 95.

NORTH CAROLINA

East zone—That portion of the State east of U.S. Highway 1.

West zone—That portion of the State west of U.S. Highway 1.

As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: In Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia, and Florida during the early wood duck season option), redhead (except in closed areas) and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia, and Florida, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1978, and January 20, 1979, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, New Jersey, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are three and six geese, respectively. However, in the area comprised of Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, and that portion of New Jersey south of the Atlantic City Expressway from its juncture with Interstate 76 near Camden east to Atlantic City, the Canada goose season length will be 90 days with the closing framework date extended to January 31, 1979. The daily bag limit within this area will be four birds with a possession limit of eight birds. North Carolina and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1978, to January 20, 1979, framework; the daily bag and possession limits are two and four Canada geese, respectively. South Carolina may select a 50-day season on Canada geese within the October 1, 1978, to January 20, 1979, framework; the daily bag and possession limits are one and two Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1978, and January 20, 1979, States in the Atlantic flyway may select 70-day seasons on snow geese (including blue geese); the daily bag and possession limits are two and four geese, respectively.

The season is closed on Atlantic brant.

MISSISSIPPI FLYWAY

Between October 1, 1978, and January 20, 1979, States in this flyway may select concurrent 50-day seasons on ducks, coots, and mergansers. The daily bag limit for ducks is five, and may include no more than two mallards or two black ducks, or one of each, and two wood ducks (except as noted below). The possession limit is 10, including no more than 4 mallards or 4 black ducks, or 4 in the aggregate, and 4 wood ducks (except as noted below).

Except in closed areas, the limit on canvasbacks and redheads is one canvasback daily and one in possession or one redhead daily and one in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wis., at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of ward 1 formerly designated as ward 6 of St. Martin Parish; and Catahoula Lake in La Salle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in section 6, T18N, R7E (Arenac County) to Sand Point in section 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River, and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, Pope, and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in section 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa, and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, La Crosse, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties

and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is five, only one of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected by States in the Mississippi flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead (except in closed areas), female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in two days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi, and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed nine consecutive days may occur between October 1 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 35 points. For other species of ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this flyway that select conventional regulations and do not have September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend five additional days, provided that the season opens on November 4, 1978. If the five-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio, Missouri, and Alabama may select hunting seasons on ducks, coots and mergansers by zones described as follows;

Michigan: *North Zone*—The Upper Peninsula. *South Zone*—The Lower Peninsula.

Illinois: *North Zone*—That portion of the State north of U.S. Highway 50.

Indiana: *South Zone*—The remainder of Illinois. *North Zone*—That portion of Indiana north of State Highway 18.

Ohio: *South Zone*—The remainder of Indiana. *North Zone*—That portion of Ohio north of Interstate Highway 70.

Missouri: *South Zone*—The remainder of Ohio. *North Zone*—That portion of Missouri north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 21, along State Highway 21 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau.

Alabama: *South Zone*—The remainder of Missouri. *South Zone*—Mobile and Baldwin Counties. *North Zone*—The remainder of Alabama.

Within each State: (1) the same bag limit option must be selected for both zones; (2) if a special scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone; and (3) seasons must run continuously within each zone.

Between October 1, 1978, and January 20, 1979, States in this flyway, except Louisiana, may select 70-day seasons on geese, with daily bag and possession limits of five geese, to include no more than two white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 1, 1978, and February 14, 1978, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits of five geese, to include no more than two white-fronted geese. The season on Canada geese is closed in Louisiana.

In Minnesota, in the:

(a) Lac Qui Parle Zone—the season on Canada geese closes after 45 days or when 7,000 birds have been harvested, whichever occurs first. The daily bag limit is two Canada geese or two white-fronted geese, or one of each; the possession limit is four Canada and white-fronted geese in the aggregate, of which no more than two may be white-fronted geese. The quota zone is that area encompassed by a boundary described as follows: Beginning at Montevideo, then west on U.S. Highway 212 to U.S. Highway 75, then north on U.S. Highway 75 to State Highway 7 at Odessa, then north on County State Aid Highway 21, Big Stone County, to U.S. Highway 12, then east on U.S. Highway 12 to County State Aid Highway 17, Swift County, then south on County State Aid Highway 17 and County State Aid Highway 9, Chippewa County, to State Highway 40, then east on State Highway 40 to State Highway 29, then south on State Highway 29 to point of beginning at Montevidio.

(b) Southeastern Zone (same as description in 1971)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is two Canada geese or two white-fronted geese or one of each; the possession limit is four Canada and white-fronted geese in the aggregate, of which no more than two may be white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is two Canada geese or two white-fronted geese or one of each; the possession limit is four Canada and white-fronted geese in the aggregate, of which no more than two may be white-fronted geese.

In Iowa, the season for Canada geese may extend for 70 consecutive days. The daily bag limit is two Canada geese. The possession limit is four Canada and white-fronted geese in the aggregate, of which no more than two may be white-fronted geese.

In Missouri, in the:

(a) Swan Lake Zone (same description as in 1971)—the season on Canada geese closes after 70 days or when 30,000 birds have been harvested, whichever occurs first. Through November 26, the daily bag limit is one Canada goose or two white-fronted geese or one of each; the possession limit is two Canada and two white-fronted geese. After November 26, the daily bag limit is two Canada geese or two white-fronted geese or one of

each; the possession limit is four Canada and white-fronted geese in the aggregate, of which no more than two may be white-fronted geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 45-day season on Canada geese between December 1, 1978, and January 20, 1979, with a daily bag limit of two Canada geese or two white-fronted geese or one of each; and a possession limit of four Canada and white-fronted geese in the aggregate, of which no more than two may be white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is two Canada geese or two white-fronted geese or one of each; the possession limit is four Canada and white-fronted geese in the aggregate, of which no more than two may be white-fronted geese.

In Wisconsin, the harvest of Canada geese is limited to 50,000. The daily bag limit is two Canada goose, two white-fronted geese, or one of each; the possession limit is two Canada and two white-fronted geese, except that in the Horicon Zone the possession limit for Canada geese is one during the first hunting period and two thereafter. In the Horicon Zone and the East Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State. The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington, and Dodge enclosed by a line beginning at the intersection of County Highway N and State Highway 175 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S and continuing easterly on County Highway AS to its intersection with County Highway E, then northerly on County Highway E to its intersection with County Highway N, then easterly on County Highway N to the point of beginning.

The East Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia, and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then northerly on State Highway 175 to its intersection with County Highway N, then westerly on County Highway N to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway AS, then westerly on County Highway AS and continuing westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, the harvest of Canada geese is limited to 50,000, with 40,000 birds allocated to the Southern Illinois Zone (same description as in 1971). The daily bag limit is two Canada geese or two white-fronted geese or one of each; the possession limit is four Canada and white-fronted geese in the aggregate, of which no more then two may be white-fronted geese. The season on Canada geese may open at a later date in the Southern Illinois Zone and extend to January 20, 1979, or until the Zone's quota of 40,000 birds is reached, whichever occurs first.

In Michigan, in the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon—the daily bag limit is two Canada geese or two white-fronted geese or one of each; the possession limit is two Canada and two white-fronted geese.

(b) Southeastern Canada Goose Management Area—(as described in 1977 Federal regulations and current State regulation)—the Canada goose season will open with the duck season and extend through December 9. Through November 14, the daily bag limit will be one Canada goose or two white-fronted geese or one of each; the possession limit is one Canada and two white-fronted geese. From November 15 through December 9, the daily bag limit will be two Canada geese or two white-fronted geese or one of each; the possession limit is two Canada and two white-fronted geese.

(c) Remainder of the State—the daily bag limit is one Canada goose or two white-fronted geese or one of each; the possession limit is one Canada goose and two white-fronted geese.

In Ohio, the daily bag limit is two Canada geese or two white-fronted geese or one of each and the possession limit is two Canada and two white-fronted geese, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer, and Auglaize the daily bag limit is one Canada goose or two white-fronted geese or one of each.

In Indiana, the daily bag limit is two Canada geese or two white-fronted geese or one of each; the possession limit is two Canada and two white-fronted geese.

In Kentucky, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. In the Ballard County Zone (as described in 1977 Federal regulations and current State regulations), the harvest of Canada geese is limited to 15,000.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag and possession limits are 2 Canada geese.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canada geese is closed.

In Alabama, the season is closed on all geese in the counties of Chambers, Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

In Arkansas, the Canada goose season will coincide with the duck season, with a daily bag limit of 1 Canada goose and a possession limit of 2 Canada geese, except that the season on Canada geese is closed in those portions of the State encompassed by the boundaries described as follows:

1. Beginning at the junction of State Highway 139 and the Arkansas-Missouri border near Monette, then south on State Highway 139 to State Highway 158, then east on State Highway 158 to the Arkansas-Tennessee border on the Mississippi River near Luxora. All Arkansas lands along the Arkansas-Missouri and Arkansas-Tennessee State boundaries within this area are included.

2. Beginning at the junction of Interstate Highway 40 and the Arkansas-Tennessee border on the Mississippi River, then west on Interstate Highway 40 to Interstate Highway 55, then north on Interstate Highway 55 to State Highway 118, then east on State Highway 118 to the Arkansas-Tennessee border on the Mississippi River near Pecan Point. All Arkansas lands along the Arkansas-Tennessee State boundary within this area are included.

3. Beginning at the junction of U.S. Highway 49 and the Arkansas-Mississippi border near Helena, then west on U.S. Highway 49 to U.S. Highway 79, then west on U.S. Highway 79 to State Highway 33, then south on State Highway 33 to State Highway 153, then southeasterly on State Highway 153 to State Highway 1, then east on State Highway 1 to State Highway 17, then south on State Highway 17 to State Highway 44, then west on State Highway 44 to County Road 96 at Tichnor, then south on County Road 96 to Arkansas Post Canal Lock No. 2, then west along the Arkansas Post Canal to the Arkansas River, then southeasterly along the Arkansas River to the Arkansas-Mississippi border. All Arkansas lands along the Arkansas-Mississippi State boundary within this area are included.

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone, the Swan Lake Zone of Missouri, and the Ballard County Zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon given public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped, or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

Central Flyway

Seasons on ducks (including mergansers) and coots may be selected between September 30, 1978, and January 21, 1979, inclusive, in Central flyway States and portions of States.

The basic season may include no more than 60 days and bag limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 4 mallards of which no more than 1 may be a female, 1 hooded merganser, and 2 wood ducks; and the possession limit may include no more than 8 mallards of which no more than 2 may be females, 2 hooded mergansers, and 4 wood ducks.

The daily bag and possession limits on coots are 15 and 30, respectively.

The daily bag and possession limits, except in closed areas, may include no more than 1 canvasback or 1 redhead. Except in closed areas, canvasbacks count 100 points each and redheads 70 points each under the point system. The areas closed to canvasback and redhead hunting are:

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

Texas—the counties of Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this flyway. The point system season length in the High Plains Mallard Management Unit is 83 days *Provided*, That the last 23 days of such season must begin on or after December 11, 1978. The High Plains Unit, roughly defined as that portion of the Central flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 60 days.

The point values for species and sexes taken in the High Plains portion of the Central flyway are as follows: canvasbacks count 100 points each; female mallards, Mexican-like ducks, wood ducks, redheads and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeons, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

The point values for species and sexes taken in the Low Plains portions of the Central flyway are as follows: except in closed areas, canvasbacks count 100 points each; female mallards, wood ducks, redheads (except in closed areas) and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeon, shovelers, and mergansers count 10 points each; all other species and sexes of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under conventional limits.

Those protions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific flyway.

States in this flyway may select goose seasons between September 30, 1978, and January 21, 1979, inclusive.

In all States in the flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

Montana, Wyoming and Colorado may select for the Central flyway portions seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

New Mexico (for the Central flyway portion) and Texas (for that portion west of U.S. Highway 81) may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 5 geese which may include no more than 4 dark geese.

North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (for that portion east of U.S. Highway 81) may select seasons of 86 days for light (snow, blue and Ross') geese and seasons of 72 days for dark (Canada and white-fronted) geese subject to the following:

Seasons for light and dark geese need not be concurrent.

The daily bag and possession limits may not exceed 5 geese during periods when such light and dark goose seasons may be concurrent.

The daily bag and possession limits may include no more than 5 light geese.

The daily bag limit may include no more than 2 dark geese and the possession limit may include no more than 4 dark geese subject to the following:

In North Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese. The possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 12, 1978.

In South Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 26, 1978, in the counties of Buffalo, Brule, Campbell, Charles Mix, Corson east of South Dakota Highway 65, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully and Walworth.

In Nebraska, the season on dark geese may not extend beyond December 17, 1978. The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each except that, in that portion of the State west of U.S. Highway 183, prior to November 20, the daily bag limit may include no more than 2 Canada geese and the possession limit no more than 4 Canada geese.

In Kansas, the season on dark geese may not extend beyond December 24, 1978. The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the Oklahoma counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

OR

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with a daily bag limit of no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese and 2 white-fronted geese or 1 of each.

In the remainder of Oklahoma, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 or each.

In that portion of Texas east of U.S. Highway 81, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose or 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

OR

(b) A season of 64 consecutive days commencing no earlier than November 18, 1978, with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

Colorado, Montana, New Mexico, Oklahoma, Texas, and Wyoming may select a sandhill crane season with daily bag and possession limits of 3 and 6, respectively, within a September 30, 1978–January 31, 1979, framework as follows:

(a) 37 consecutive days from September 30 through November 5, 1978, in the Central flyway portion of Colorado except the San Luis Valley area.

(b) 93 consecutive days between October 21, 1978, and January 31, 1979, in the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 25, 1978, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days, to open with the goose season, in all of the Central flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River.

(e) 30 consecutive days beginning on or after October 7, 1978, in Platte and Goshen Counties, Wyo.

All persons hunting sandhill cranes in the above designated areas of the Central flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

Emergency closures of hunting seasons will be considered whenever portions of either the Gray's Lake or Aransas flocks of whooping cranes are found in areas where there is risk to their taking by hunters.

PACIFIC FLYWAY

Between September 30, 1978, and January 21, 1979, concurrent 93-day seasons on ducks, mergansers, coots, and gallinules may be selected in Pacific flyway States and portions of States, except as subsequently noted. Basic daily bag and possession limits on ducks are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

In designated areas of Arizona and that portion of New Mexico lying within the Pacific flyway, the daily bag and possession limits on hen mallards and Mexican-like ducks, either singly or in the aggregate, shall be 2 and 4, respectively. These areas are:

That portion of Cochise County, Ariz., lying south and east of the boundary described as follows:

Interstate Highway 10 from the New Mexico-Arizona border west to Benson, south on U.S. Highway 80 to the San Pedro River, and south along the San Pedro River to the U.S.-Mexico border.

That portion of New Mexico lying south and west of the boundary described as follows:

Interstate Highway 10 from the New Mexico-Arizona border east to the Continental Divide, then south along the Continental Divide to the U.S.-Mexico border.

The daily bag and possession limits on mergansers are 5 and 10, respectively, of which no more than 1 daily and 2 in possession may be hooded mergansers.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Waterfowl season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Northeastern Zone (formerly designated as the Tule Lake Area) of California must coincide with season dates selected by Oregon for waterfowl.

For the Southern Zone of California formerly identified as that portion of the State lying south of the Tehachapi Mountains and west of the Colorado River Zone (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

For Nevada, county of Clark, the State may designate season dates for waterfowl differing from those in the remainder of the State.

In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington, and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Casacade Mountains and east of the Big White Salmon River in Klickitat County (all formerly identified as the Columbia Basin Area for ducks), between September 30, 1978, and January 21, 1979, the season lengths for ducks, mergansers, coots and gallinules may be 100 days with all seasons to run concurrently.

Between September 30, 1978, and January 21, 1979, 93-day seasons on geese may be selected in States or portions of States in this flyway, except as subsequently noted. The basic daily bag and possession limits are 6, provided, that the daily bag limit includes no more than 3 snow geese and 3 geese of the dark species (Canada and white-fronted); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. The daily bag and possession limits may include no more than 1 Ross' goose. The season on Ross' goose, if any, must be the same as that on snow geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted to the hunting of Canada geese in order to protect the Aleutian Canada goose for which no hunting is allowed:

(1) In the counties of Del Norte and Humboldt there will be no open season on Canada geese during the 1978–79 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then south on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking Canada geese will not open until December 14, 1978, and will then continue to the end of the 1978–79 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season for taking Canada geese will close on November 23, 1978.

Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season; and the bag limits for geese are to be the same as in the general goose season in their respective States.

In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in that portion of Montana and Wyoming in the Pacific flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1979.

In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in that portion of Colorado in the Pacific flyway; in Utah except Washington County, the daily bag and possession limits are 2 Canada geese, and the season on Canada geese may be no more than 72 days and may not extend beyond December 24, 1978.

For Nevada the State may experimentally designate season dates on geese in Clark County and on geese in Elko County and that portion of White Pine County within Ruby Lakes National Wildlife Refuge differing from those in the remainer of the State. The daily bag and possession limits are 2 Canada geese throughout the State.

In Arizona, except in the counties of Mohave and Yuma; in that portion of New Mexico in the Pacific flyway; in Clark County, Nev.; in Washington County, Utah; and in the Southern Zone, except that portion in California Department of Fish and Game District 22, of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 21, 1979.

In California, the balance of California Fish and Game District 22 in the Southern Zone (that portion of District 22 lying outside the Colorado River Zone), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canada geese may be no more than 72 days and may not extend beyond January 7, 1979.

In the Arizona counties of Mohave and Yuma and in the Colorado River Zone of California, the seasons on Canada geese may be no more than 72 days and may not extend beyond January 7, 1979. The daily bag and possession limits on Canada geese are 2 and 2, respectively, in these areas. The season on geese in the Colorado River Zone of California must coincide with that selected by Arizona.

In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the seasons on snow geese may not extend beyond January 1, 1979; and the daily bag and possession limits on snow geese are 2 and 4 respectively.

In the Oregon counties of Lake and Klamath and in the Northeastern Zone of California, the daily bag and possession limits on snow geese shall be 1 and 1, respectively, during the framework period from September 30, 1978, to November 9, 1978, and 3 and 3, respectively, during the period November 10, 1978, to January 21, 1979. In that portion of California lying north of Interstate Highway 80, except the Northeastern Zone, the daily bag and possession limits on snow geese shall be 3 and 3, respectively, during the framework period from September 30, 1978, to December 25, 1978, and 1 and

1, respectively, during the period December 26, 1978, to January 21, 1979.

Between October 21, 1978, and February 21, 1979, States in this flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada, and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

For all States entirely in the Pacific flyway, open seasons on common snipe must coincide with the duck season locally in effect. For other States partially within the Pacific flyway seasons between September 1, 1978, and February 28, 1979, and not to exceed 93 days, may be selected. The daily bag and possession limits are 8 and 16, respectively. Any State may split its snipe season without penalty.

Special Falconry Frameworks

Falconry is a permitted means of taking migratory game birds in any State.

Any State listed in 50 CFR 21.29(k) as meeting Federal falconry standards may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.
2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.
3. Hunting hours shall not exceed ½ hour before sunrise to sunset.
4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.
5. Each State selecting extended seasons shall report to the Service the results of the special falconry season by March 15, 1979.
6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Economic Impact Review

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: August 29, 1978.

Lynn A. Greenwalt,
Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-24685 Filed 8-31-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART VIII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

RIOTS OR CIVIL DISORDERS

Offer to Provide Reinsurance Against Excess Aggregate Loss

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[Docket No. N-78-890]

OFFER TO PROVIDE REINSURANCE AGAINST EXCESS AGGREGATE LOSS RESULTING FROM RIOTS OR CIVIL DISORDERS

AGENCY: Housing and Urban Development/Federal Insurance Administration.

ACTION: Notice of offer to provide reinsurance against excess aggregate loss resulting from riots or civil disorders.

SUMMARY: The Federal Insurance Administration is publishing in this Notice the terms and conditions of the Standard Reinsurance Contract for 1978-79 governing reinsurance under the Federal insurance program reinsuring against excess aggregate losses resulting from riots or civil disorders to eligible insurers for the contract year from October 1, 1978, to September 30, 1979. In addition, this Notice sets forth the offer to provide reinsurance and the method for accepting the offer. This offer and the contract set forth are authorized by law.

EFFECTIVE DATE: September 1, 1978.

DATES: The offer is effective upon publication in the FEDERAL REGISTER. The Contract is effective 12:01 a.m., e.s.t., October 1, 1978, for all acceptances dispatched before 12 p.m. (midnight), September 30, 1978. Subject to extension of the Urban Property Protection Act, 12 U.S.C. 1749bbb et. seq., the Contract is effective for acceptances dispatched after September 30, 1978, 12:01 a.m., e.s.t., of the day following dispatch of the acceptance.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The purposes of this Notice are:

(1) To offer publicly Federal reinsurance against excess aggregate losses resulting from defined riots or civil disorders to insurers eligible for such reinsurance for the contract year commencing October 1, 1978, and ending September 30, 1979;

(2) To provide the method by which the offer may be accepted; and

(3) To set forth the terms and conditions of the Standard Reinsurance Contract (1978-79).

Since the offer to provide reinsurance and the terms and conditions of the Standard Reinsurance Contract for the October 1, 1978, to September 30, 1979, contract year must appear in time for acceptance by eligible insurers on or before September 30, 1978, this Notice of offer to provide insurance against excess aggregate losses resulting from riots or civil disorders is effective upon publication of this Notice in the FEDERAL REGISTER. The program authority to continue reinsurance beyond September 30, 1978, requires the enactment of Federal legislation currently under consideration by the Congress. Therefore, the validity of this offer is conditioned upon the enactment of the enabling legislation.

The Standard Reinsurance Contract (1978-79) provides for an aggregate basic premium rate of $0.02 per $100 of direct premiums earned on lines reinsured.

Both the aggregate basic premium and the additional premium, if any, are payable on an advance estimated basis as specified in the contract. Interest shall accrue at 6 percent (6%) per annum on any portion of any amount due the reinsurer which is not paid to the reinsurer within 30 days from its due date.

The offer to provide reinsurance is as follows:

OFFER TO PROVIDE REINSURANCE

Pursuant to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended (12 U.S.C. 1749bbb—1749bbb-21), subject to all regulations promulgated thereunder, and to the terms and conditions set forth in the Standard Reinsurance Contract (1978-79) as printed below, the Federal Insurance Administrator (hereinafter referred to as the "reinsurer") offers to enter into the Standard Reinsurance Contract (1978-79), the terms and conditions of which are as printed hereinbelow, with any eligible insurer which accepts this offer. The reinsurer's offer to provide reinsurance is effective upon publication in the FEDERAL REGISTER.

METHOD OF ACCEPTANCE OF OFFER

(1) Acceptance of this offer shall be by telegraphed or mailed notice of acceptance to the reinsurer. If the date and time of dispatch of the notice of acceptance are not later than midnight, e.s.t., September 30, 1978, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., October 1, 1978. If the date and time of dispatch of the notice of acceptance are later than Midnight, e.s.t., September 30, 1978, subject to extension of the Act, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., on the day after such notice of acceptance is dispatched. The date and time of dispatch of the notice of acceptance must be clearly shown either by telegraph dispatched notation or postmark, and such notation or postmark shall be conclusive proof of the date and time of dispatch.

(2) The telegram or letter accepting this offer of reinsurance shall indicate the States in which reinsurance on lines of mandatory coverage is to be provided and shall specifically designate for each such State the lines of optional coverage, if any, for which reinsurance is to be provided. The notice of acceptance shall be in substantially the following form:

The [name of insurer of insurers] hereby accepts the offer, as filed with the Office of the Federal Register, of the Standard Reinsurance Contract (1978-79), pursuant to the Urban Property Protection and Reinsurance Act of 1968, as amended, for the mandatory and [specify] optional lines in the following States: [specify].

(3) Any eligible insurer accepting this offer of reinsurance shall be supplied copies of the Standard Reinsurance Contract (1978-79), Form HUD 1601, for execution and return to the reinsurer.

TERMS AND CONDITIONS OF THE STANDARD REINSURANCE CONTRACT (1978-79)

[At this point in the contract, the insurance company or companies reinsured are required to list the names and addresses of the principal company and all property insurance companies under common or related ownership or control as defined in the contract, and space is provided for the execution of the contract by the parties.]

THIS CONTRACT, made by and between the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") and the company or companies specified above (hereinafter referrred to as the "Company").

WITNESSETH: Subject to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, and to the terms and conditions herein set forth, the Reinsurer hereby obligates itself to pay, as reinsurance of the Company, the amount of the Company's excess aggregate losses resulting from riots or civil disorders in such lines of mandatory and optional coverage as are designated separately for each State by the Company in its notice of acceptance and confirmed under section XVIII.

SECTION I.—POLICIES REINSURED

This Standard Reinsurance Contract applies to:

(A) All policies or contracts of direct property insurance issued by the Company to any property owner, except for policies for which the business is handled for or through any State pool

or any other continuing organization, pool, or association of insurers, and

(B) The Company's participations in State pools and, as may be approved by the Reinsurer, in other continuing organizations, pools, or associations of insurers, which policies, contracts, or participations are in force on the effective date hereof or which commence or are renewed on or after such effective date in all the mandatory and in such optional standard lines of property insurance listed below as are designated separately for each State by the Company in its notice of acceptance and confirmed under section XVIII.

LINES OF MANDATORY COVERAGE

(A) Fire and extended coverage;
(B) Vandalism and malicious mischief;
(C) Other allied lines of fire insurance;
(D) Burglary and theft; and
(E) Those portions of multiple peril policies covering similar perils to those provided in (A), (B), (C), (D);

LINES OF OPTIONAL COVERAGE

(F) Inland marine;
(G) Glass;
(H) Boiler and machinery;
(I) Ocean marine; and
(J) Aircraft physical damage.

SECTION II.—PREMIUMS

The aggregate basic premium due the Reinsurer for the reinsurance coverage provided under this contract shall be computed by applying an annual rate of two-hundredths of one per centum (0.02%) to an aggregate premium base consisting of the sum of the products of the Company's direct premiums earned in each State for each reinsured line for the calendar year 1978 multiplied by the specified percentage of such earned premium, as defined in section XVII of this contract.

If the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued for the period between October 1, 1978, and September 30, 1979, exceeds the total amount of all aggregate basic premiums paid or payable to the Reinsurer under all such contracts, the Company shall be obligated to pay the Reinsurer, at or subsequent to adjustment, an additional premium determined on the basis of the amount of the remainder derived by subtracting the total amount of all aggregate basic premiums paid or payable to the Reinsurer under all such contracts from the total amount of all excess aggregate losses paid by the Reinsurer under all such contracts. The amount of the additional premium shall be equal to the product of the Company's aggregate basic premium multiplied:

By a factor of one, if the remainder is greater than two times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to three times that amount;

By a factor or two, if the remainder is greater than three times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to four times that amount;

By a factor of four, if the remainder is greater than six times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to eight times that amount;

By a factor of six, if the remainder is greater than ten times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to twelve times that amount;

By a factor of eight, if the remainder is greater than twelve times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to fourteen times that amount;

By a factor of ten, if the remainder is greater than eighteen times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to twenty times that amount; or

By a factor of twelve, if the remainder is greater than twenty times the total amount of all aggregate basic premium under all such contracts.

An advance premium, which shall be an estimated premium only, shall be computed by the Company on the basis of its direct premiums earned in the calendar year 1977 in the manner required for the computation of the aggregate basic premium. If any line of insurance is added during the term of this contract for which the Company had no premium writings in 1977, the premium base for the advance premium shall be estimated by State for the period from the date of attachment of coverage to the expiration date of this contract. In no event shall the advance premium be less than $25.00 for each State in which reinsurance is provided under this contract. The advance premium shall be paid to the Reinsurer without demand within 30 days from the effective date of coverage.

At the option of the Reinsurer and prior to adjustment, the Company shall pay the additional premium on an estimated basis. An estimated additional premium payment equal to the amount of the Company's advance premium shall be payable to the Reinsurer if the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued by the Reinsurer for the period between October 1, 1978, and September 30, 1979, exceeds the total amount of all estimated premiums collected by the Reinsurer under all such contracts (the total amount of all advance premiums plus the total amount of any estimated additional premium payments). The total amount of estimated additional premium payments, whether required separately or concurrently, shall not exceed 12 times the amount of the Company's advance premium. The actual amount of the additional premiums shall subsequently be computed and adjusted in accordance with the provisions of the preceding paragraphs and section VII.

With the exception of the advance premium which is due without demand of the Reinsurer within 30 days from the effective date of coverage, premium amounts shall be due 30 days after the demand of the Reinsurer. Interest shall accrue at six per centum (6%) per annum on any portion of any premium amount which is not received on or before 30 days from its due date.

The aggregate basic premium, together with any additional premium which may be due the Reinsurer in accordance with the preceding paragraphs, shall be deemed fully earned on the date that such reinsurance coverage attaches, except as other wise provided in section VI.

SECTION III.—ASSESSMENTS

If any other company (or companies) reinsured by the Reinsurer under a like Standard Reinsurance Contract incurs aggregate losses in reinsured lines in any State during the period of this contract, which in total exceed its net retention for all such lines, and as a result lodges claims against the Reinsurer, then the Company, on demand of the Reinsurer, shall pay to the Reinsurer an assessment sufficient to meet the Company's equitable share of all such excess aggregate losses incurred in the State, but only to the extent that such losses exceed funding applied in successive order as follows:

(1) All basic and additional premiums paid or payable by all reinsured companies into the National Insurance Development Fund for the period from October 1, 1978, through September 30, 1979, for reinsurance in such State in accordance with the provisions of section II and section VII of this contract.

(2) A share from the National Insurance Development Fund in proportion that any remaining deficits bear to the lesser of (a) the total of such deficits or (b) four times the amount of all aggregate basic premiums paid or payable to the Reinsurer under this contract and all like Standard Reinsurance Contracts issued for the period between October 1, 1978, and September 30, 1979.

(3) The unused net amount, or part thereof equal to such State deficits, of all reinsurance premiums paid or payable by all reinsured companies into

the National Insurance Development Fund for the period from August 1, 1968, through September 30, 1978 (including investment income earned thereon through April 30, 1975) for reinsurance in such State.

(4) A share of all additional premiums paid or payable to the Reinsurer under this contract and all like Standard Reinsurance Contracts for the period between October 1, 1978, and September 30, 1979, which have not been used under section 3(1) above in proportion that any remaining deficits bear to the lessser of (a) the total of such deficits or (b) the total of the unused additional premiums.

(5) A share from the National Insurance Development Fund in proportion that any remaining deficits bear to the lesser of (a) the total of such deficits or (b) six times the amount of all aggregate basic premiums paid or payable to the Reinsurer under this contract and all like Standard Reinsurance Contracts issued for the period between October 1, 1978, and September 30, 1979.

Such share of any remaining deficit for a State shall be in the proportion that—

(A) The amount, if any, by which the Company's net retention in lines reinsured hereunder in such State exceeds the Company's aggregate losses in such lines, bears to

(B) The aggregate amount of unabsorbed net retention of all the lines of insurance of all companies reinsured hereunder in such State, but such share shall not exceed the amount of the Company's unabsorbed net retention under (A). An assessment will be required only after the termination of coverage provided by this contract.

SECTION IV.—CLAIMS

The Company shall advise the Reinsurer by letter (A) of all losses from a single occurrence which exceed $50,000, and (B) whenever it appears that aggregate losses have been incurred in an amount equal to 90 percent (90%) of the Company's net retention in any State, on the basis of its direct premiums earned and reported to the Reinsurer for the calendar year 1977.

When the Company incurs aggregate losses which exceed its net retention in any State, the Company may make claim upon the Reinsurer for the payment of excess aggregate losses in that State by filing a certification of loss and thereafter such supporting documentation of such losses as may be required by the Reinsurer, and following the receipt of such certifications and documentation the Reinsurer shall, as promptly as possible, in such installments and on such conditions as may be determined by the Reinsurer to be appropriate (including advance payments made on the basis of preliminary certifications of loss filed in advance of the final determination of the ultimate amount of losses paid), pay to the Company the amount of such excess aggregate losses subject to adjustments on account of underpayments or overpayments.

If the ultimate amount of losses to be paid by the Company has not been finally determined when the certification of loss is filed, the Company shall, in due course, file one or more supplementary certifications of loss and thereafter the Reinsurer or the Company, as the case may be, shall pay the balance due.

Claims paid pursuant to computations of net retentions based upon the direct premiums earned for the calendar year 1977 shall be recomputed and adjusted at the termination of the coverage provided by this contract on the basis of direct premiums earned in reinsured lines for the calendar year 1978.

SECTION V.—INCEPTION AND EXPIRATION DATES

Provided the Company has requested reinsurance by States and lines of coverage on or before September 30, 1978, this Standard Reinsurance Contract shall be in effect from 12:01 a.m., e.s.t., on October 1, 1978, and shall expire at 12:00 p.m. (midnight), e.s.t., on September 30, 1979, unless sooner terminated.

If the Company applies for coverage on or after October 1, 1978, this contract shall be effective from 12:01 a.m., e.s.t., on the day after such application is dispatched, as determined by the date of postmark or telegram, provided the Company requests coverage by State and line and otherwise complies with the eligibility requirements of this contract.

This contract applies only to losses occurring during the term hereof, as follows:

(A) If at the inception of this contract any riot or civil disorder is in progress, no coverage shall be provided for losses resulting therefrom unless this contract is a continuation of coverage from the previous year's contract;

(B) If this contract terminates while a riot or civil disorder covered hereby is in progress, no coverage shall be provided for any losses resulting therefrom which occur after the date and time of termination of this contract.

SECTION VI.—CANCELLATIONS

Reinsurance under this contract may be canceled by the Company in its entirety or with respect to any State upon written notice by the Company to the Reinsurer stating that it desires to cancel the reinsurance coverage specified and that it will pay any premium due the Reinsurer in accordance with the provisions of this contract, subject to any adjustments which may be required under section VIII: *Provided, however,* That no coverage shall attach under this contract if the Company has willfully concealed or misrepresented any material fact with respect thereto.

Reinsurance under this contract may be canceled by the Reinsurer in its entirety or with respect to any State upon 30 days written notice to the Company of such cancellation, stating the reasons for cancellation, which shall be limited to one or more of the following grounds: Fraud or misrepresentation subsequent to the inception of the contract, nonpayment of premium or any other amount due the Reinsurer, and the grounds set forth in the second paragraph of section XII.

Whenever the Reinsurer determines, in his discretion, that any cancellation of reinsurance is involuntary and without fault on the part of the Company, the premium due the Reinsurer for the coverage afforded under this contract shall be prorated in the ratio of—

(A) The number of days for which coverage was provided prior to the cancellation of such coverage plus 30, to

(B) The total number of days of coverage provided under this contract from the inception of coverage up to and including September 30, 1979.

In the event of any cancellation of reinsurance coverage under this section, the net retention and assessment of such Company shall be computed, without proration, on the basis of the direct premiums earned for the calendar year 1978. Refunds of premiums, if any, due the Company upon cancellation may, at the discretion of the Reinsurer, be deferred until after final adjustments have been made in accordance with the provisions of section VII hereof.

SECTION VII.—ADJUSTMENTS

The Company shall report to the Reinsurer within 60 days after request its direct premiums earned for the calendar year 1978 in all reinsured lines in all States for which reinsurance was provided under this contract, for the purpose of computing and adjusting the reinsurance premium due to the Reinsurer with respect to the coverage provided. The direct premiums earned to be reported for any line of insurance added during the contract term for any State in which the company had no premium writings in such line in 1978 shall be the direct premiums earned for the first 9 months of 1979 as estimated by the Company, subject to audit by the Reinsurer.

In no event shall the adjusted amount of direct premiums earned by the Company result in a basic premium to the Reinsurer in an amount less than $25 for each State during the contract year, which shall constitute the minimum adjusted reinsurance premium for any State under this contract.

On or before December 31, 1979, or such later date as may be permitted at the option of the Reinsurer, the Company shall report to the Reinsurer its aggregate losses.

Any overpayment or underpayment between the Reinsurer and the Company shall be adjusted and paid in accordance with the obligations assumed hereinunder.

SECTION VIII.—INSOLVENCY

In the event of insolvency of the Company the reinsurance under this contract shall be payable by the Reinsurer to the Company or to its liquidator, receiver, or statutory successor on the basis of the liability of the Company under all policies, contracts, or participation shares reinsured without diminution because of the insolvency of the Company.

It is further agreed that the liquidator, or receiver, or statutory successor of the Company shall give written notice to the Reinsurer of the pendency of any claim against the Company on the policies, contracts, or participation shares reinsured within a reasonable time after such claim is filed in the insolvency proceeding, and that during the pendency of such claim the Reinsurer may investigate such claim an interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which may be deemed available to the Company or its liquidator, receiver, or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to court approval, against the Company as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

SECTION IX.—ERRORS AND OMISSIONS

Inadvertent delays, errors, or omissions made in connection with any transaction under this contract shall not relieve either party from any liability which would have attached had such delay, error, or omission not occurred, provided always that such delay, error or omission is rectified as soon as possible after discovery.

SECTION X.—RESTRICTION OF BENEFITS

No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

SECTION XI.—PARTICIPATION IN STATEWIDE PLANS

No reinsurance shall be offered or effective under this contract in any State unless there is in effect in such State, on the date coverage commences, a continuing statewide plan to make essential property insurance more widely available, and the Company is fully participating in such plan on a risk-bearing basis and is certified by the State insurance authority as meeting the requirements of this section. Except with respect to its runoff business after ceasing to do business within a State, the Company shall not be eligible for reinsurance under this contract in any State in which it is not engaged in the direct writing of property insurance at the time coverage is requested, or in which it is writing business on a nonadmitted basis, unless it reports such nonadmitted business to the State insurance authority and participates in the statewide plan of such State on the basis of such reported business. The Company shall file and maintain with the State insurance authority in each State in which it is participating in the statewide plan a statement pledging its full participation and cooperation in carrying out the plan and shall file a copy of each such statement with the Reinsurer. The Company shall not direct any agent, broker, or othe producer not to solicit business through such plans and shall not penalize in any way any agent, broker, or other producer for submitting applications for insurance under such plans. The Company shall also establish and carry out an education and public information program to encourage agents, brokers, and other producers to utilize the programs and facilities available under such statewide plans.

In the event that the Company after the inception of this contract voluntarily withdraws from any State plan, pool, or other facility required by the provisions of this section, such withdrawal shall be deemed to constitute cancellation by the Company with respect to that State as of the effective date of the withdrawal.

SECTION XII.—LIMITATIONS ON REINSURANCE

Reinsurance hereunder shall not be applicable to insurance policies subsequently written in a State by the Company after the close of the second full regular session of the appropriate State legislative body following August 1, 1968, if the State has not enacted legislation to reimburse the Reinsurer, as necessary, for the portion of the aggregate losses specified in section 1223(a)(1) of the National Housing Act, as amended (12 U.S.C. 1749bbb-9(a)), paid by the Reinsurer under this contract.

The Reinsurer shall cancel coverage, in accordance with the provisions of this contract, with respect to any State in which—

(A) The Reinsurer has found (after consultation with the State insurance authority) that (1) it is necessary to have a suitable program adopted, in addition to required statewide plans, to make essential property insurance available without regard to environmental hazards and that such a program has not been adopted, or (2) the Company is not fully participating in the Statewide plan; and, where it exists, in a State pool or other facility; and, where it exists, in any other program found necessary to make essential property insurance more readily available in the State; or

(B) Following a merger, acquisition, consolidation, or reorganization involving the Company and one or more insurers with or without such reinsurance, the surviving insurer does not meet all criteria or eligibility for reinsurance and within 10 days pay any reinsurance premiums due; or

(C) The Reinsurer has found (after consultation with the State insurance authority) that a statewide plan is not complying with the Reinsurer's statutory or regulatory criteria or has become inoperative.

Notwithstanding the foregoing provisions, reinsurance may at the election of the Company be continued, up to and including September 30, 1979, for the term of such policies and contracts reinsured prior to the date of termination of reinsurance under this section, provided the Company pays the reinsurance premiums in such amounts as may be required. For the purposes of this section, the renewal, extension, modification, or other change in a policy or contract for which any additional premium is charged, shall be deemed to be a policy or contract written on the date such change was made effective.

Reinsurance under this contract shall be subject to all of the provisions of the Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749bbb–1749bbb21, as amended, and to all regulations duly promulgated by the Reinsurer pursuant thereto prior to the inception of any particular coverage provided under this contract.

SECTION XIII.—ARBITRATION

If any misunderstanding or dispute arises between the Company and the Reinsurer with reference to the amount of premium due, the amount of loss, or to any other factual issue under any provisions of this contract,

other than as to legal liability or interpretation of law, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding only upon approval by the Reinsurer. The Company and the Reinsurer may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make his determination. If the Company and the Reinsurer cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the Reinsurer.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the Reinsurer. The Company and the Reinsurer shall bear equally all expenses of the arbitration.

Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section shall, upon objection by the Reinsurer or the Company, be inadmissible as evidence in any subsequent proceedings in any court or competent jurisdiction.

SECTION XIV.—ACCESS TO BOOKS AND RECORDS

The Reinsurer and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of investigation, audit, an examination to any books, documents, papers, and records of the Company that are pertinent to the business reinsured under this contract. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities. The Company shall keep records which fully disclose all matters pertinent to the business reinsured, including premiums and claims paid or payable under this contract. Records relating to premiums shall be retained and available for five (5) years after final adjustment of premiums, and to reinsurance claims five (5) years after final adjustment of such claims.

SECTION XV.—INFORMATION AND ANNUAL STATEMENTS

The Company shall furnish to the Reinsurer such summaries and analyses of information in its records as may be necessary to carry out the purposes of the Urban Property Protection and Reinsurance Act of 1968, as amended, in such form as the Reinsurer, in cooperation with the State insurance authority, shall prescribe; and the Company shall file with the Reinsurer a true and correct copy of the Company's Fire and Casualty annual statement, or amendment thereof, as filed with the State insurance authority of the Company's domiciliary State, at the time it files such statement or amendment with the State insurance authority. The Company shall also file with the Reinsurer an equivalent of page 14 of such annual statement for each State in which reinsurance is provided under this contract.

SECTION XVI.—EXCLUSIONS

Reinsurance under this contract shall not be applicable with respect to any claim for:

(A) All or any part of a loss which is the direct or indirect result of controlled or uncontrolled nuclear reaction, radiation, or radioactive contamination; or

(B) Any loss to any aircraft while the aircraft is in flight, including that period between the time when power is turned on for the purpose of taxiing connected to takeoff until the time when the landing run has ended, taxiing has been completed, and power has been turned off; or

(C) Any loss to any aircraft, or resulting from collision with aircraft, which is precipitated or caused by hijacking of any aircraft or attempt threat, including loss from wrongful seizure, wrongful diversion from course of flight pattern, or wrongful exercise of command or control, of an aircraft, by any person or persons, through the use of force or violence or the threat of force or violence.

SECTION XVII.—DEFINITIONS

As used in this contract the term—

(1) "Aggregate losses" means the sum total of losses resulting from riots or civil disorders occurring in a State and allocable to a State in which reinsurance is provided;

(2) "Company" means any company authorized to engage in the insurance business under the laws of any State, except that if there are two or more companies within a State in which reinsurance is to be provided under this contract which, as determined by the Reinsurer:

(A) Are under common ownership and ordinarily operate on a group basis; or

(B) Are under single management direction; or

(C) Are otherwise determined by the Reinsurer to have substantially common or interelated ownership, direction, management, or control; then all such related, associated, or affiliated companies, excluding nonadmitted companies, which are not specifically included by endorsement to this contract, shall be reinsured only as one aggregate entity;

(3) "Continuing organization, pool, or association of insurers" means an industry pool created to provide direct insurance to meet special problems or insurability, such as for a particular class or type of business;

(4) "Direct premiums earned" means direct premiums earned as reported in column 2 on page 14 of the Company's Fire and Casualty annual statement for the specified calendar year in the form adopted by the National Association of Insurance Commissioners, subject to (A) adjustment as approved by the Reinsurer for cessions to pools, facilities, and associations, and for the inclusion of participations in such pools, facilities, and associations, and (B) such other appropriate adjustments as may be approved or required by the Reinsurer, which shall include adjustments for dividends paid or credited to policyholders and reported in column 3 on page 14, subject to a maximum credit of 20 percent (20%) of direct premiums earned for any one line of insurance;

(5) "Excess aggregate losses" means that part of aggregate losses which is equal to the sum of—

(A) Ninety percent of the Company's aggregate losses in excess of its net retention, until the Company's 10 percent share of aggregate losses under this provision (A) equals the amount of its net retention;

(B) Ninety-five percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A)) in excess of twice its net retention, until the Company's 5-percent share of aggregate losses under this provision (B) equals the amount of its net retention; and

(C) Ninety-eight percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A) and (B)) in excess of an amount equal to three times its net retention;

(6) "Losses" means all claims proved, approved, and paid by the Company under reinsured policies, resulting from riots or civil disorders occurring in a State during the period of this contract after making proper deduction for salvage and for recoveries other than reinsurance, together with an allowance for expense in connection therewith, hereby agreed to equal an amount per claim of 8 percent (8%) of the first $25,000 of any such claim, plus 3 percent (3%) of the amount by which such claim exceeds $25,000 but is less than $100,000, plus 1 percent (1%) of the amount by which the claim exceeds $100,000; it does not mean any claim excluded under sec. XVI;

(7) "Net retention" means the amount of aggregate losses that the Company must stand before the Reinsurer's liability hereunder attaches and shall be one aggregate figure for

each State which shall be the larger of either $1,000 or the amount determined by applying a factor of 2½ percent (2½%) to the specified percentage of the Company's direct premiums earned in the State for the calendar year 1978 on those lines of insurance hereby reinsured;

(8) "Loss resulting from riot" means loss of or damage to property actually and immediately resulting from an overt and tumultuous disturbance of the public peace by three or more persons mutually assisting one another, or otherwise acting in designed concert, in the execution of a common purpose through the unlawful use of force and violence.

"Loss resulting from civil disorder" means:

(A) Loss of or damage to property actually and immediately resulting from any pattern of unlawful incidents taking place within close proximity both as to time and place and involving damage to property intentionally caused by persons apparently having the primary motivation of disturbing the public peace through civil disruption, civil disobedience, or civil protest; provided that at least two of such related incidents result in property damage in excess of $1,000 each; or

(B) Loss of or damage to property actually and immediately resulting from any occurrence involving property damage in excess of $2,000 caused by persons whose unlawful conduct in so causing the occurrence manifests their primary purpose of disturbing the public peace through civil disruption, civil disobedience, or civil protest.

(9) "Specified percentage" means 100 percent (100%) of the direct premiums earned for each line of insurance reinsured under this contract except that the specified percentage of homeowners multiple peril shall be 85 percent (85%) and that of Commercial multiple peril shall be 65 percent (65%);

(10) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands; and

(11) "State pool" means any State Fair Plan pool or insurance placement facility which is intended to meet the requirements of Part A of the Urban Property Protection and Reinsurance Act of 1968 (82 Stat. 558, 84 Stat. 1791, 12 U.S.C. 1749bbb-3—1749bbb-6a).

SECTION XVIII.—SCHEDULE OF COVERAGE

The Company shall indicate with an (X) in the appropriate column and line those States in which the mandatory lines are to be reinsured under this contract. Coverage of mandatory lines may be designated only for those States in which the Company is eligible for reinsurance in accordance with section XI of this contract.

The Company shall also indicate by State with an (X) in the appropriate column and line any optional lines which are to be reinsured under this contract. Coverage of optional lines is available only for those States in which the mandatory lines are reinsured. [The schedule of mandatory and optional coverages by State and line is set forth at this point in the Contract.]

Issued at Washington, D.C., on August 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24865 Filed 8-31-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 1, 1978
PART IX

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

■

EXPORT OF APPENDIX II SPECIES

Bobcat, Lynx, River Otter, and American Ginseng; Export Findings for the 1978–1979 Season

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER VIII—ENDANGERED SPECIES SCIENTIFIC AUTHORITY

PART 810—EXPORT OF APPENDIX II SPECIES

BOBCAT, LYNX, RIVER OTTER, AND AMERICAN GINSENG

Export Findings for the 1978–1979 Season

AGENCY: Endangered Species Scientific Authority.

ACTION: Final rulemaking.

SUMMARY: On July 7 and August 7, 1978, the Endangered Species Scientific Authority (ESSA) proposed findings on a State-by-State basis as to whether export of bobcat, lynx, and river otter pelts harvested in 1978–1979 and American ginseng roots harvested in 1978 will not be detrimental to the survival of the species (43 FR 29469 et seq.; 43 FR 35013 et seq.). The ESSA has received substantial comment on these proposals, primarily in the form of State reports in support of a no detriment finding. The ESSA hereby establishes final export findings for these seasons. Federal export permits may be issued only for pelts and roots of these species that were harvested in States for which the ESSA has found no detriment.

EFFECTIVE DATE: September 1, 1978.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240. Forthcoming comments and comments already received will be available for public inspection at 1612 K Street NW., Washington, D.C., 12th floor, 7:45 a.m. to 4:15 P.M., Mondays through Fridays except Federal holidays.

FOR FURTHER INFORMATION CONCERNING BIOLOGICAL FINDINGS CONTACT:

Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240, 202-343-8962.

FOR INFORMATION CONCERNING EXPORT PERMITS CONTACT:

Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-634-1496.

SUPPLEMENTARY INFORMATION: The Endangered Species Scientific Authority (ESSA) hereby establishes findings on a State-by-State basis as to whether export of bobcat, lynx, and river otter pelts harvested in 1978–1979 seasons, and American ginseng roots harvested in 1978, will not be detrimental to the survival of these species. These findings are meant to satisfy the ESSA's responsibilities under article IV, paragraph 2 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention). Federal export permits may be issued only for pelts and roots of these species that were harvested in States for which the ESSA has found no detriment.

The Federal Wildlife Permit Office of the U.S. Fish and Wildlife Service serves as the U.S. Management Authority (MA) for the Convention. Before the MA can issue permits for foreign export of appendix II species taken from the wild, the MA must be satisfied that specimens were not taken in violation of State law and in addition the ESSA must advise the MA that the export will not be detrimental to the survival of the species (Convention, article IV 2). The present document frequently refers to ESSA "approval" of export; the term indicates that the ESSA finds export will not be detrimental to survival and therefore has no objection to issuance of export permits by the MA, but the term in no way suggests limitation of the authority of the MA to withhold permits on other grounds. Note also that Convention permits are not required for trapping or sale within the United States.

Actions of the ESSA up to July 7, 1978, are described in the FEDERAL REGISTER issue of that date (43 FR 29469 et seq.), as background information to proposed ESSA findings whether export of bobcat, lynx, and river otter pelts harvested in 1978–1979 and American ginseng roots collected in 1978 will not be detrimental to the survival of these species. The July 7 ESSA proposal would establish several standards for ESSA findings of no detriment (43 FR 29477-8), and would adopt guidelines for findings published on April 10, 1978 (43 FR 15097).

The ESSA proposed to approve export without Federal quotas for 1978–1979 harvest of those State populations of bobcat, lynx, and river otters meeting the following minimum requirements recommended by the New Orleans Working Group, as discussed and construed in the ESSA's notice of April 10:

MINIMUM REQUIREMENTS FOR BIOLOGICAL INFORMATION

1. Population trend information . . . the method of determination to be a matter of State choice.
2. Information on total harvest of the species.
3. Information on distribution of harvest.
4. Habitat evaluation.

MINIMUM REQUIREMENTS FOR A MANAGEMENT PROGRAM

1. There should be a controlled harvest * * * methods and seasons to be a matter of State choice.
2. All pelts should be registered and marked.
3. Harvest level objectives should be determined annually.

Some State wildlife agencies meet these recommendations except for the failure to specify a harvest level objective. Provided that an approximate harvest can be predicted based upon past reported harvest and past and planned harvest controls, the ESSA did not propose to require an explicit harvest level objective for export approval in 1978–79.

The ESSA also proposed to approve export without Federal quotas from certain State populations of bobcat, lynx, and river otter for which one or more recommendations of the working group have not been met adequately, if at all. We made these proposals only because we considered other information sufficient for a finding of no detriment. For example, information on high density from certain Southern States, although not rigorous, suggests that less thorough management than in other States may provide as much assurance that export will not be detrimental. However, we look forward to adoption of these recommended minimum requirements by every affected State.

The ESSA proposed to approve export subject to Federal quotas for States whose wildlife agencies lack authority to limit bobcat harvest, provided those agencies have implemented substantial programs to evaluate the impact of harvest and can by these or other means demonstrate that export subject to a quota in 1978–79 will not be detrimental to the survival of this species in their State. The ESSA commented that this situation cannot be continued indefinitely. The New Orleans Working Group has recommended:

> No pelt from any of the three species should be allowed into international export if it was taken in a State in which the wildlife management agency does not have the authority to regulate the taking of the species.

However, the ESSA indicated that it does not believe that an inflexible position on this issue is appropriate. Failure of the ESSA to approve any export from these States might cripple fledgling research programs, because the incentive to obtain tags for export serves as a device for the State agencies to obtain carcasses and to evaluate harvest. Furthermore, at least one such State has produced substantial

biological information indicating a viable bobcat population.

Only wildlife agencies in New Mexico and Wyoming still lack authority to limit harvest of bobcat. Neither apparently will have the opportunity to obtain full legislative authority over the species before our 1978–79 export findings are made. However, both apparently will have such an opportunity before the 1979–80 season. Although we proposed to approve limited export in 1978–79 for States in this category, we are concerned about the status of the bobcat in these States, and our approval of limited export in 1978–79 should not be construed as a precedent for approval in the future.

On July 7, the ESSA also proposed to approve export of American ginseng from those States that have implemented substantial programs to conserve the species, and whose populations apparently are capable of supporting a sustained commercial yield. Acceptable conservation programs generally must include some form of research and regulation. However, the ESSA recognizes the recency of wild plant management in many States and the frequent lack of management authority in State agencies. Consequently, we proposed to approve export from certain States whose management agencies lack authority to limit harvest, because those States have substantial plans for 1978 under existing authority and are currently supporting sustained commercial yield of the plant. Several of those State agencies have indicated that they anticipate seeking additional authority from future State legislatures. The ESSA wishes to be supportive of new State programs; however, as with the furbearers, our approval of export for roots harvested in these States during 1978 should not be construed as a precedent for approval in the future.

Early in the 30-day comment period on the July 7 proposal, the ESSA received several State reports in support of a no detriment finding. Because we desire maximum public imput, on August 7 (43 FR 35013) we revised our July 7 proposal in light of these reports, and we extended the comment period until August 23 for both the original proposals and these revisions.

Summary of General Comments

Subsequent to the ESSA's proposed findings of July 7, 1978, comments on exports of these species have been received from nongovernmental associations and individuals as well as from government agencies of many affected States. Comments of State agencies are incorporated in the supplemental tables below, provided that the comments were not considered in our July 7 or August 7 proposals and that the new information substantially revises that given previously.

As previously, the ESSA has received many letters protesting export of bobcat, lynx, and river otter. However, none of these letters refer specifically to our July 7 or August 7 proposals, and these letters do not provide substantial information on these species. The ESSA also has received a few comments from trappers and hunters opposed to any Federal regulation of export, but these have not referred to our July or August proposals either.

The ESSA has received comments from the American Fur Merchant's Association, the American Fur Industry, and the Associated Fur Manufacturers. Although the comments express dissatisfaction with placement of the bobcat, lynx, and river otter on appendix II, the comments are generally supportive of the ESSA's proposals.

The ESSA has received comments from two private conservation organizations which are principally concerned with the status of these species in two States. One organization, Fur and Trapping Ethics (FATE), submitted detailed comments addressing ESSA export findings in general and these findings with respect to Minnesota in particular. FATE urged the ESSA to require at least what the New Orleans Working Group on Bobcat, Lynx, and River Otter has recommended and to require better data than have been presented. For Minnesota, FATE recommended that the ESSA approve no export of bobcat and lynx and approve export of no more than 300 river otter. FATE bases its recommendation on the uncertainty of the status of the populations, coupled with high pelt price and a decline in reported Minnesota bobcat harvest from 1975 through 1977.

The ESSA appreciates FATE's recommendation that better data be required. We agree that little quantitative information is available on the status of these species in Minnesota, or elsewhere. Furthermore, we share FATE's concern over the way in which high pelt price may affect harvest, and populations in turn. However, we consider information on these species in Minnesota to indicate that harvest in 1978–79 will not be detrimental to their survival. This information is summarized in ESSA's export proposals of July 7, 1978 (43 FR 29469), and is available for public inspection upon request.

The Sportsmen's Council of Washington State commented in detail upon the bobcat in Washington. The Council asked the ESSA not to approve bobcat export until the working group's recommended minimum requirements are met. The Council expressed particular concern for the tagging system implemented by the State in 1977–78, which it claims was inadequate.

The ESSA recognizes that certain tagging programs may not effectively report harvest or insure that pelts were taken in the State of tagging. We recognize that State tagging programs vary widely, from mandatory tagging of pelts by State agents at the field level to sale of tags to dealers without further control. However, we expect that Washington State will strengthen its tagging program in 1978–79. In any event, we have stipulated in these findings that pelts must be identified to State and season, and the MA is responsible for working with Washington and other States to insure that these conditions are met.

A detailed comment on the July 7 proposal was submitted by the Defenders of Wildlife, incorporating additional comments submitted by the Sierra Club and Ms. Hope Ryden.

Among other points, these comments deny the accuracy of total population sizes estimated by various State wildlife agencies and summarized in the ESSA's notice of March 16 (43 FR 11081). These claims are supported by a document prepared for the Sierra Club by Dr. Irven H. Rinard. The document assumes, based on several cited studies, that bobcat density varies from 1.5 square miles per bobcat to 10 square miles per bobcat. From this assumption and the assumption that density decreases as latitude and longitude increase, densities are predicted for each of nine regions of the United States. These predicted densities vary from 1.5 square miles per bobcat to 5 square miles per bobcat. The total area of each State is divided by the density for the appropriate region, resulting in a "maximum" estimate of population size.

We recognize that little confidence generally can be placed in the population estimates that have been made for the bobcat in several States, and these estimates did not weigh heavily in our proposed findings. On the other hand, the Sierra Club analysis has certain limitations. Bobcat density may vary with latitude and longitude, but we have no reliable information to this effect, except that bobcats apparently are most dense in the Southeast. Furthermore, there are reported densities considerably higher than the cited 0.67 bobcats per square mile (1.5 square miles per bobcat). For example, one recent study in Alabama indicated densities of two bobcats per square mile (letter from S. D. Miller to Cecil D. Andrus, September 15, 1977), and 1.5 bobcats per square mile were found in South Carolina (Provost, Nelson, and Marshall, 1973. Population Dynamics and Behavior in the Bobcat. In *The World's Cats*, ed. R. L. Eaton, pp.

42-67. Winston, OR: World Wildlife Safari). We do not know how representative these density estimates are, but they are based on thorough local investigations. In any event, they indicate densities considerably higher than used in Dr. Rinard's analysis.

The Sierra Club comment also may be misleading because it does not account for habitat that has been rendered unsuitable for bobcat. Dr. Rinard acknowledges this difficulty, and accordingly characterizes his predictions as "maximum" estimates. However, this is a crucial but unknown variable. In general, there is no reliable way to estimate State population size without field research within the States.

Most of the comment from the Defenders of Wildlife is a restatement and recharacterization of information selected from material previously summarized or discussed by the ESSA, followed by conclusions different from those we have drawn. We invite interested persons to review the published record of our actions affecting bobcats, as well as supporting documentation in our files, and to compare this record with the comment from Defenders of Wildlife, which is available for inspection at our office.

The Defenders' comment introduces a substantial and new element by requesting bobcat export determinations by subspecies. Their request apparently is based on Article I of the Convention, which defines a species as ". . . any species, subspecies, or geographically separate population thereof; . . . ." The bobcat was included in Appendix II by the listing of the entire family Felidae. Just as this family listing requires consideration of the infraspecific groups included in the Convention definition. Such consideration, however, should not mandate the publication of findings on a subspecific basis, so long as the effect of findings made is to prevent detriment to recognized taxa.

The ESSA recognizes the mandate to protect subspecies. We have made export findings for all 48 States in which bobcats have historically occurred. Only nine subspecies of bobcats are presently named as occurring in the United States. Information is available and management is carried out in State units. The State-by-State findings provide a more precise and responsive mechanism than would findings based primarily on subspecies. In addition, bobcat subspecies are poorly defined, adding weight to this conclusion.

Appendix VIII to the Defenders' comment, a letter from David Nagorsen of the Royal Ontario Museum to Ms. Ginger Merchant of Defenders, states succinctly some underlying difficulties with making bobcat export findings by subspecies:

". . . Peterson's 1952 revision is still the best taxonomic treatment of the eastern races of bobcat. Hall and Kelson's map seems to be more or less the same as Peterson's, however, they drew sharp boundaries [sic] between subspecies. This is rather unrealistic. Unless there are geographic barriers isolating two races (e.g., mountains), there is usually a zone of intergradation between two races or subspecies. Peterson concluded that a zone of intergradation between the bobcat races *gigas* and *rufus* occurs in Maine whereas Hall and Kelson drew a sharply defined boundary separating these two races in Vermont, New Hampshire, and New York States.

The question of subspecies or races in mammals and other vertebrates for that matter, is a controversial one. Some biologists reject entirely the concept of distinct subspecies or races. Even if one accepts the concept, mammalian subspecies are frequently distinguished by subtle differences in size or cranial characters. Without a knowledge of the collecting site, it may be extremely difficult to assign a specimen to a given subspecies. For endangered species lists, I personally would prefer to see only the species name and the regions or local areas where it is considered endangered. For example the bobcat *Lynx rufus* is endangered in Maine (or whatever) rather than the bobcat subspecies *L. r. gigas* is endangered. . . ."

The crisp subspecies lines used by Hall and Kelson (*North American Mammals*, 1958) and in Hall's more recent unpublished subspecies map (1978, supplied with Defenders' petition), coupled with the abbreviated subspecies descriptions quoted by Defenders from Seton (*Lives of Game Animals*, 1929), make the definition of bobcat subspecies appear more simple and clear-cut than is justified by the original literature on which these descriptions hinge. As described in the letter quoted above, Hall's lines merely suggest boundaries between historically described subspecies. For example, Peterson and Downing (1952, Contrib. Roy. Ont. Mus. *33*: 1-22), who most recently reviewed eastern bobcat subspecies, described a broad zone of overlap between *Lynx rufus gigas* and *L. r. rufus*. They found these two subspecies overlapping in New York, Vermont, New Hampshire, Maine, and Nova Scotia. Hall, on the other hand, represents this zone of overlap with a single boundary line. The latter approach is useful in a work summarizing taxonomy of all North American mammals, but cannot reflect the complexities of a dynamic system, especially when based on a small number of specimens.

Modern concepts of subspecies generally are based on a range of characters rather than on a single "type" as suggested by the cited descriptions from Seton. Peterson and Downing (*op cit.*), following the most complete recent examination of eastern subspecies, concluded that "In pelage colour and markings we find such an extreme range of variation in the skins available for study that we can find no constant pelage character by which any of the eastern races can be distinguished with certainty." For their study they relied on statistical analysis of skull measurements and size ratios. As frequently occurs in such cases, many of the measurements overlap among subspecies and are distinguishable only when statistical parameters of large samples are compared. A subspecies might be defined by the high frequency of a particular character, but that character may occur in other populations and may not be useful in assigning an individual specimen to the subspecies.

State agencies can respond to different conservation needs when subspecies within a State can be readily distinguished. For example, in the Northwest, the dark coastal *L. r. fasciatus* can be distinguished from the lighter inland *L. r. pallescens*. Eastern Oregon has been closed to bobcat trapping, and eastern Washington has shorter seasons. Washington is also collecting data separately from east and west of the Cascades Range, which separates the subspecies. Such clear-cut cases, however, are exceptional, and both the biology and management of bobcats require the ESSA to make its findings State-by-State rather than by subspecific boundaries. This approach should ensure survival of both the species and the various subspecies.

In addition to comments by State agencies that are incorporated in the supplemental tables below, the ESSA has received seven comments concerning the July 7 proposal for American ginseng. Three comments simply state support for the proposal to approve exports from North Carolina and Missouri.

Three comments supply information and make suggestions similar to those discussed previously. In addition, these comments express support for proposals to approve exports from Kentucky, Pennsylvania, and Illinois.

Finally, in a letter dated July 26, 1978, Mr. A. T. Thomas, Appalachian Root and Herb Co., stated that he believes American ginseng is becoming rare in West Virginia. Mr. Thomas cited land uses and harvest methods that contribute to the plant's decline. Mr. Thomas' observations give cause for concern, and need to be thoroughly investigated. However, West Virginia is a large producer of wild American ginseng roots, and the plant is known to occur in 51 of 55 counties. In addition, West Virginia has initiated a program to better establish the species' status and to monitor and manage its harvest. In the future, if available information does not support continued

harvest, the ESSA will not find in favor of export.

Supplemental Tables

For each of the States and species in the supplemental tables below, the ESSA has received additional information in support of a no detriment finding. Consequently, we are publishing summaries of this information in the same form as used in our proposals of July 7 (43 FR 29469) and August 7 (43 FR 35013).

Tables: Bobcat and Otters

Description of the table categories follows, along with explanations of abbreviations used.

State classification. The type of management provided by a State wildlife agency is often defined by an official category to which each species is assigned. Because State definitions of the same word may differ, the labels here may not correspond exactly to that found in a State's regulations, but the intent has been retained.

F=Furbearer: Taking is allowed under State control and pelts may be sold.

G=Game: Hunting is allowed under State control. In some, but not all States, this may include trapping and sale of pelts.

R=Regulated: The State wildlife agency has authority to regulate taking. This may include furbearer and game as well as other classifications.

U=Unregulated: Authority to manage the species has not been granted to the State wildlife agency by its legislature.

Quota given, 1977-78. State export quotas listed here represent the maximum number of pelts of that species for which export was approved by the ESSA in the 1977-78 season, as reported in the March 16 Federal Register notice.

Reported harvest, 1977-78. The State's reported harvest for the 1977-78 trapping season. In certain cases (see abbreviations below), more than one reporting system was used, and the differing reports are given with appropriate designations. Problems of comparing harvest reports made by different systems are discussed in the March 16 notice.

TR=Trapper Report: Mandatory report by trapper of each kill. In most cases this includes tagging of the pelt by a State official. This is generally considered the most reliable measure of harvest.

HR=Hunter Report: Mandatory report by hunter (as for trapper).

DR=Dealer Report: Mandatory report by fur dealers in State of all furs bought and sold. Such reports may be misleading when no distinction is made for skins originating in one State and sold in another. Multiple sales of the same pelt can also reduce accuracy of this method.

TS=Trapper Survey; HS=Hunter Survey; DS=Dealer Survey: voluntary survey or reports from a sample of trappers, hunters, or fur dealers. Results of these are commonly extrapolated, with a wide range of reliability, depending on attention to statistical limitations.

ADC=Animal Damage Control: Report of predator control operations.

ET=Export Tag: Prior to setting of export quotas for 1977-78, most States committed themselves to issuing a limited number of tags, numbered and identified by State of origin. For a number of reasons, many States either were unable to limit the number of regularly issued tags or were unable to require mandatory tagging for that season. To solve this problem, many issued a limited number of special tags. Reports from several parts of the country indicate that prices offered for pelts bearing valid export tags were markedly higher than for untagged pelts, suggesting a reasonably strong incentive for tagging of pelts even where voluntary.

(##%)=Estimate of completeness of report: A number of States were still in the process of collecting data, and were unable to provide final figures in time for the present proposal. Where a percentage is given, it indicates the State's estimate of the completeness of their report (i.e., percent of trappers or dealers reporting, etc.).

ADJ=Adjusted. Indicates State agency has estimated total from partial records.

Recent changes in management. Important considerations in the ESSA's decision not to apply quotas to all States for 1978-79 are the recent changes in many States' management of these species, especially for the bobcat, in areas where problems may have occurred. Most of these changes are seen as ensuring a more conservative harvest or providing better information for management. The list provided here is sure to be incomplete, but provides a summary of many changes described to the ESSA.

Findings and conditions for 1978-79 season. The ESSA's findings concerning export of pelts from the coming trapping season are given here. The rationale for approving export from certain States without use of quotas, as were used in 1977-78, has been explained above. The findings are abbreviated as:

A=Approved: Export is approved for pelts legally taken during 1978-79 season. The ESSA considers that expected harvest under the State's planned management regime will not be detrimental to the survival of the species in that State. Pelts must be clearly identified as to State of origin and season of taking.

Q:####=Quota: Exports from this State are approved for pelts taken during the 1978-79 season, on the condition that exports are limited to the specified quota, and pelts are clearly identified to State and season.

Comments. Other information relevant to the finding is given here.

BOBCAT

State	Classification	Past Quota '77-78	Reported Harvest '77-'78 Number	How Reported	Recent Changes In Management	Findings & Conditions for '78-79 Season	Comments
Alabama	R	4,000	564 441 3,100	ET TR (18.4%) TR(ADJ)	5/77-Trapper report required.	A	Research in progress. Night hunting and electronic calls prohibited. Much land privately held, may reduce trapping pressure.
Arkansas	F	3,000*	1,838	DR	7/78-Changed from Game to Furbearer status, license required to take or buy, season reduced. '78-'79-May require tags.	A	Some carcass collection and study. Reduced harvest may be due to lower prices, unreported pelts, and bad weather.
Colorado	R	4,000	1,295 2,836	ET TS, DR	'75-First restrictive season. 12/77-Management goals changed to emphasize value of resource and de-emphasize predator control. '78-State to require tag and report.	A	Report prey increase since '75. Habitat survey made relative to trapping success.
Louisiana	F	4,000	3,718 3,349	DR ET	'78-State to tag for export.	A	Recently completed research; research planned and in progress. Scent post survey planned. Report decreased pelt value.
Massachusetts	G	50	19	TR	'71-Limited season, not open during deer season; report required. '75-Leghold trap illegal on land. '77-Mandatory tagging, eastern Mass. closed.	A	Carrying out detailed survey of bobcat habitat. Starting age structure analysis.
Mississippi	F	4,000	3,550	HS,TS(25%,ADJ)	'78-First restrictive trapping season, dealer license & report required. Tags to be required for "export" from State. Proposal to require tagging at trapper level.	A	Population considered increasing. Research proposed.
South Carolina	F	0	0		'78-Changed to Furbearer from Game status, tagging and report required from trapper and dealer. Furbearer management program being developed.	A	Not legal to sell pelts in '77-'78 season resulting in no harvest record. Survey of State biologists suggests populations secure and stable.
Texas	R	10,000	16,192- 24,462	TS(4.3%,ADJ), ADC	77-Annual general trapper survey initiated. 78-State agency implementing management program based on authority of Nongame Species section of Parks & Wildlife Code and of Executive Order by governor. Tags, reports, and submission of head required for export from State.	A	Investigating techniques for status surveys. Trapping license required for sale of pelts. Harvest per trapper same as previous year.

BOBCAT

State	Classification	Past Quota '77-78	Reported Harvest '77-'78 Number	Reported Harvest '77-'78 How Reported	Recent Changes In Management	Findings & Conditions for '78-79 Season	Comments
Vermont	R	200	92	TR	'71-Bounty eliminated. '76-First restrictive season. '77-'78-Tagging and carcass collection mandatory. '78-Hunting and trapping seasons reduced substantially.	A	Habitat considered extensive. State biologists consider population condition as fair or fair to poor, but suggest slight improvement over past year. Age structure study incomplete, but may suggest good reproduction and survival Shortened seasons expected to reduce harvest.
Virginia	R	1,500	194 NC	ET DR	'78-Mandatory tagging by agency personnel.	A	Population study started. Harvest probably higher than indicated by export tags (Dealer reports being analyzed.).
Wyoming	U	2,000	1,466	ET	'77-'78- Voluntary tags available. '78-'79- To make more extensive efforts to collect research material.	Q: 2,000	Report increased prey. Studying teeth & reproductive tracts; age structure analysis suggests little change from previous years, except that young survival may be improving.
Alabama	F	1,500	826 631 1,300-1,800	ET TR(18.4%) TR(ADJ)	5/77-Trapper report required.	A	Research in progress. Harvest primarily in southern part of State. Habitat increasing in north. Low prices for beaver said to be reducing otter harvest.
Arkansas	F	400*	419	DR	'78-'79-May require tags.	A	Some carcass collection & study. May study status. Increased harvest attributed to increasing beaver and habitat, which may have led to increased trapping for beaver and otter, as well as to a favorable domestic market for otter.
Delaware	C	60	60 70	ET ET(ADJ)	Annual review of seasons. '78-State agency to tag pelts.	A	Wetland protection and management said to be improving otter habitat. Current population estimate, 600. Cooperating with Maryland otter research by supplying carcasses. Tagging resulted in better harvest estimate.
Louisiana	F	7,500	6,597 6,045	DR ET	'76-'77-State quotas set for certain management areas. Certain other areas closed. '78-To tag pelts for export.	A	Abundant sign reported following season. Studying census techniques. Report decreased trapping and pelt value for otter.

OTTER

State	Classification	Past Quota '77-78	Reported Harvest '77-'78 Number	Reported Harvest '77-'78 How Reported	Recent Changes In Management	Findings & Conditions for '78-79 Season	Comments
Maryland	R	165	187	TR	Pelt tags required since 1970.	A	Population model suggests increasing population. Substantial research in progress. Habitat survey relative to harvest.
Massachusetts	R	68	163	TR		A	Increased harvest due to higher catch per trapper. Mail survey done on otter abundance & distribution. Incomplete analysis of age structure suggests younger population.
Mississippi	F	350	2,260	TS(25%,ADJ)	'78- Dealer license & report required. Tags to be required for export from State. Proposal to require tagging at trapper level.	A	Population considered increasing with beaver. Research proposed.
New Hampshire	F	200	236 194	TR TR(Tags)	'73-Tagging and report required. '76-Authority to set seasons & limits transferred to agency from legislature. '78-Season reduced. Propose requiring carcass for tagging.	A	Harvest relatively constant. Carcasses to be collected for research. State biologist suggests is near carrying capacity.
South Carolina	G,F	650	560	ET	'78-Tagging & report required from trapper & dealer. Furbearer management program being developed.	A	Survey of State biologists suggests population secure & stable. Highest populations found with beaver.
Vermont	F	50	42	TR	'73-Mandatory report. '74-Tagging mandatory.	A	Difficult to trap because wide-ranging in State. Not considered rare or endangered.
Virginia	R	585	1,141	TR	'74-Tagging required. '78-'79-Closed west of Blue Ridge Mtns.	A	Research in progress. Teeth collected for aging. Monitoring studies started.
Washington	F	770	760 538	TR ET	Local closures adjusted regularly. '78-Tagging mandatory prior to "export" from State. '78-'79-Season for Olympic Peninsula extended 2 weeks.	A	Eastern Washington has been closed; population growing. Increasing population on Olympic Peninsula.
Wisconsin	F	1,200	1,053	TR		A	Tagging mandatory. 5-year research program starting. Current harvest within mean of past 5 years.

LYNX

Washington - '77-'78 quota, 35. None reported taken. '78-'79 season reduced 25%. Open only to limited trapping, much of habitat inaccessible. Finding: A.

TABLES: AMERICAN GINSENG

The following tables summarize by State the information concerning American ginseng received by the U.S. Fish and Wildlife Service and the ESSA. Many States have recently initiated programs to better establish the status of this species, to monitor its harvest, and, in some cases, to manage its harvest. Without such programs, it is doubtful that adequate information would be available to support approval of export by the ESSA.

Description of the table categories follows, along with explanations of abbreviations used. More detailed State-by-State summaries of comments are available from the ESSA.

State classification. Most States have trespass statutes pertaining to the protection of private and public plant resources. At minimum, these laws usually require oral permission from private landowners or written permision from State official before the resources may be removed. Although these statutes may be applied to help conserve American ginseng, they were not considered in determining the State classifications. The State classifications are based on State statutes, regulatory authorities, or initiatives specifically concerned with American ginseng.

C=Conserved: A State agency has implemented or has initiated programs to help conserve American ginseng even though the State agency has no express regulatory authority.

R=Regulated: A State agency has regulatory authority to conserve American ginseng.

U=Unregulated: No State agency currently has regulatory authority to conserve American ginseng.

Reported harvest. Few States have even gross estimates of the size of past harvest. The estimate for Virginia is based on voluntary dealer surveys (DS), which may include roots purchased from other dealers as well as those roots purchased from collectors.

State population. A sampling of qualitative opinions concerning American ginseng's abundance and status in the States is provided in the tables. Few of these opinions are supported by data.

As discussed in our August 30, 1977, FEDERAL REGISTER notice (42 FR 43729), qualitative opinions concerning the plant's abundance and status must be viewed critically. Such terms as endangered, rare, and stable are often used imprecisely, without guidelines or criteria. In addition, the plant's status undoubtedly varies with local conditions, further complicating any evaluation of its status and abundance.

In the tables, information concerning American ginseng's status and abundance is followed by a brief explanation of how those determinations were made. In some cases, no grounds for a qualitative opinion were given so no explanation is provided in the "How Determined" column. When available, grounds are stated with the following abbreviations:

B=Biologists' opinions: Either an opinion expressed by a biologist to U.S. Fish and Wildlife Service or the ESSA, or an opinion expressed by one or more biologists which was cited as a basis for a State comment or a State endangered species list.

CC=Collectors' comments: Comments from collectors received by the U.S. Fish and Wildlife Service or the ESSA.

FO=Field observations: Included when field observations were specifically referred to as a basis for the determination.

HR=Herbarium records: Based on information recorded with herbarium specimens.

LS=Literature survey: Based on information in the literature.

SC=Survey of collectors: State survey of American ginseng collectors in the affected State.

SD=Survey of dealers: State survey of American ginseng dealers who purchased roots harvested in the affected State.

Findings and conditions for 1978 season. The ESSA's findings concerning export of roots from the 1978 collecting season are given here. The findings are abbreviated as:

A=Approved: Export is approved for roots legally harvested during the 1978 season. The ESSA considers that harvest in the State will not be detrimental to the survival of the species in that State. Roots must be documented as to State of origin and season of collecting.

Comments. Other information relevant to the finding is given here.

AMERICAN GINSENG

State	Classification	Harvest		State Population		Findings	Comments
		Reported Harvest/ 1977	How Reported	Estimates of Abundance or Status	How Determined		
Arkansas	C	--	--	Depleted but locally abundant 3/	--	A	The State has initiated a program to better establish the species' status and to monitor the harvest pending express legislative authority in 1979.
				Increased abundance and distribution 4/	SC (9 responses)		
Georgia	C	--	--	Endangered 9/	LS & B	A	Not included in the State endangered species list. The State has initiated a program to better establish the species' status and to monitor its harvest pending express regulatory authority.
Illinois	C	--	--	Rare 10/	--	A	The State has initiated a program to better establish the species' status and to monitor its harvest pending express legislative authority in 1979.
				Decreasing 11/	SC & SD		
				Threatened 12/	LS, HR & B		
				Stable, or Increasing, or Decreasing	CC		

AMERICAN GINSENG

State	Classification	Harvest: Reported Harvest/ 1977	Harvest: How Reported	State Population: Estimates of Abundance or Status	State Population: How Determined	Findings	Comments
Indiana	C	--	--	Decreasing 13/	FO	A	Not included in preliminary State list of endangered plants. 13/ The State has initiated a program to better establish the species' status, and to monitor the harvest pending express legislative authority in 1978-1979.
				Not Rare 14/	--		
				Stable or Decreasing			
Iowa	C	--	--	Stable, or Increasing, or Decreasing	CC	A	The State has initiated a program to better establish the species' status and to monitor its harvest pending express legislative authority in 1979.
Minnesota	C	--	--	Rare and Endangered 17/			The State has initiated a program to better establish the species' status and to monitor its harvest pending additional legislative authority in 1979.
				"Species of Special Interest" 27/			
				Stable	CC		
New York	R	--	--	Decreasing and Protected 36/	FO	A	The State has initiated a program to better establish the species' status, and to monitor and manage its harvest pending additional legislative authority in 1979.
				Increasing or Decreasing	CC & DC		
Pennsylvania	U	--	--	Stable 48/	--	A	Pennsylvania anticipates establishing a program to better establish the species' status, and to monitor and manage its harvest pending express legislative authority in 1978.
				Rare in Western Pennsylvania 49/	--		
				Rare in Perry County, Pennsylvania 50/	FO		
				Rare in Southeastern Pennsylvania 51/	--		
				Not Endangered or Threatened 52/	Because of harvest technique		
				Decreasing 53/	--		
				Decreasing in Northampton County, Pennsylvania 54/	--		
				Stable or Increasing	CC		
Tennessee	C	--	--	Rare 60/	--	A	The State has initiated a program to better establish the species' status and to monitor the harvest pending express legislative authority in 1979.
				Rare 17/	--		
				Threatened 61/	HR & B		
				Decreasing 62/	HR & FO		
				Stable, or Increasing, or Decreasing	CC		
				Threatened 63/	B, and other individuals familiar with the plant.		

AMERICAN GINSENG

State	Classification	Harvest: Reported Harvest/ 1977	Harvest: How Reported	State Population: Estimates of Abundance or Status	State Population: How Determined	Findings	Comments
Virginia	C	20,663 lbs. 10 oz.	SD	"endangered in only a few localities if at all" 65/	B	A	The State has initiated a program to better establish the species' status and to monitor the harvest pending express legislative authority in 1979.
				Endangered 66/	--		
				Endangered 67/	--		
				Stable	CC		
Wisconsin	R	--	--	Threatened 70/	HR, LS & FO	A	The State has initiated a program to better establish the species' status, and to monitor and manage its harvest.
				Rare 71/	--		
				Stable	CC		

FOOTNOTES FOR AMERICAN GINSENG TABLE

[NOTE.—A complete reference to footnotes used in these or previous tables may be found in 43 FR 29491, July 7, 1978.]

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9. McCollum, J. L. (Editor), 1974. "Endangered Species of Georgia." Georgia Department of Natural Resources. Atlanta, Ga. 66 pp.

10. Mohlenbrock, D. H., and J. W. Voigt, 1959. *A Flora of Southern Illinois.* Southern Illinois University Press. Carbondale, Ill. 390 pp.

11. Letter dated September 7, 1978, from J. Schwegman, Illinois Department of Conservation.

12. Memorandum, semi-final list of Endangered and Threatened Plants, dated January 18, 1978, by C. J. Sheviak, Director, Endangered Plants Project, Illinois Natural Land Institute.

13. Correspondence dated December 29, 1976, from R. D. Feldt, Indiana Department of Natural Resources.

14. Letter dated October 4, 1977, from J. D. Cloud, Indiana Department of Natural Resources.

17. Kartesz, J. T., and R. Kartesz, 1977. *The Biota of North America* Part 1: *Vascular Plants.* Volume I: *Rare Plants.* Biota of North America Committee. Pittsburgh, Pa. 361 pp.

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36. Letter dated October 4, 1977, from H. Jamnback, New York State Science Service.

48. Letter dated August 17, 1977, from M. K. Goddard, Pennsylvania Department of Environmental Resources.

49. Letter dated August 17, 1977, from W. E. Buker, Carnegie Museum.

50. Letter dated August 25, 1977, from J. Adams, Morris Arboretum.

51. Letter dated August 26, 1977, from J. M. Fogg, Arboretum of the Barnes Foundation.

52. Letter dated August 28, 1977, from E. J. Wherry.

53. Letter dated August 29, 1977, from C. L. Bryne, Waynesburg College.

54. Letter dated October 26, 1977, from K. A. Friedman, Lehigh Valley Conservancy, Inc.

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62. Letter dated August 23, 1978, from E. T. Browne, Jr., Memphis State University.

63. Letter dated May 9, 1978, from B. R. Allison, Tennessee Department of Conservation.

65. Letter dated September 6, 1977, from E. J. Shiflet, Virginia Secretary of Commerce and Resources.

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67. Letter dated October 12, 1977, from W. M. Loftis, Jr., Shenandoah National Park.

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71. Letter dated August 26, 1977, from P. J. Salamun, University of Wisconsin, Milwaukee.

THE 1978-79 EXPORT FINDINGS

In light of the substantial information submitted before and during the comment period for our July 7 and August 7, 1978, proposals, the ESSA adopts the following final export findings for the 1978-79 harvest of bobcat, lynx, and river otter, and the 1978 harvest of American ginseng.

The ESSA adopts these findings using the standards for export approval as stated in its proposed rulemaking of July 7, 1978 (43 FR 29469), and as restated in this document.

The ESSA hereby approves export of specimens of these four species from every State for which approval was proposed on July 7, 1978 (43 FR 29469), or August 7, 1978 (43 FR 35013).

The ESSA hereby approves export of specimens of the four species from the States listed in the supplemental tables above, for which export approval was not previously proposed.

Accordingly, Chapter VIII—Endangered Species Scientific Authority is added to Title 50 of the Code of Federal Regulations, consisting at this time of Part 810—Export of Appendix II Species. The regulations for part 810 have not yet been promulgated; however, the following annex is being added to part 810 at this time to read as follows:

THE 1978-79 ANNEX

States for which the ESSA has approved export of bobcat, lynx, or river otter harvested in the 1978-79 season, or American ginseng harvested in 1978.

NOTE.—The Letter "A" indicates export approval. Export of bobcat pelts from New Mexico and Wyoming must be limited to the numbers given in the table. For all other States, the ESSA is unable to find that export will not be detrimental to the survival of these species. For further information see: 43 FR 29469-29491 (July 7, 1978), 43 FR 35013-35015 (August 7, 1978), 43 FR 36293 (August 16, 1978), 43 FR [insert number first page this document] (September 1, 1978).

State	Bobcat	Lynx	River Otter	American Ginseng
Alabama	A		A	
Alaska		A	A	
Arizona	A			
Arkansas	A		A	A
California	A			
Colorado	A			
Connecticut			A	
Delaware			A	
Florida	A		A	
Georgia	A		A	A
Idaho	A	A		
Illinois				A
Indiana				A
Iowa				A
Kansas	A			
Kentucky				A
Louisiana	A		A	
Maine	A		A	
Maryland			A	A
Massachusetts	A		A	
Michigan	A		A	A
Minnesota	A	A	A	A
Mississippi	A		A	
Missouri				A
Montana	A	A	A	
Nebraska	A			
Nevada	A			
New Hampshire			A	
New Mexico	A: Q6,000			
New York	A		A	A
North Carolina	A		A	A
North Dakota	A			
Oklahoma	A			
Oregon	A		A	
Pennsylvania				A
Rhode Island			A	
South Carolina	A		A	
South Dakota	A			
Tennessee	A			A
Texas	A			
Vermont	A		A	
Virginia	A		A	A
Washington	A	A	A	
West Virginia	A			A
Wisconsin	A		A	A
Wyoming	A: Q2,000			
Navajo Nation	A			

Publication of these findings has been approved by the Members of the Endangered Species Scientific Authority.

Dated: August 30, 1978.

WILLIAM Y. BROWN,
Executive Secretary,
Endangered
Species Scientific Authority.

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